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ABSTRACT

This report documents the low economic status of minorities and women in Cleveland by examining inadequacies in the city's affirmative action plan, deficiencies in Cleveland's contract compliance program, and inconsistencies in the Federal government's civil rights enforcement effort. Four major problems with Cleveland's affirmative action plan are described: (1) the failure to identify specific problem areas in Cleveland's employment policies and practices which account for underutilization of women and minorities; (2) the failure to establish and implement action programs that would eliminate discrimination against women and minorities; (3) the statement of goals for only a one year period; and (4) the failure of the city to devote sufficient resources for implementation of an adequate affirmative action plan. Underutilization is described as the biggest factor in contract compliance deficiencies. It is stated that several of the largest beneficiaries of city business employ no minorities or women in professional, technical or administrative positions and most do not employ minorities or women at a rate that is even close to their representation in the Cleveland labor market. Also noted are inconsistencies in Federal agency grant requirements and regulations enforcement. Recommendations for redressing these problems are made. Appended are responses by various Cleveland officials and organizations to the charges of discrimination made in this report. (Author/EB)

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Affirmative Action or Inaction?
The Pursuit of Equal Employment Opportunity in Cleveland

A report prepared by the Ohio Advisory Committee to the U.S. Commission on Civil Rights

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LETTER OF TRANSMITTAL

OHIO ADVISORY COMMITTEE
TO THE U.S. COMMISSION ON CIVIL RIGHTS
October 1977

MEMBERS OF THE COMMISSION
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Sirs and Madam:

The Ohio Advisory Committee submits this report on issues of equal employment opportunity in Cleveland, Ohio, as part of its responsibility to advise the Commission about civil rights problems within this State.

This report reviews the economic status of women and minorities in the Cleveland metropolitan area; the affirmative action plan recently adopted by the city of Cleveland; the office of contract compliance in Cleveland; and the civil rights enforcement efforts on the part of various Federal agencies. This report documents the second class status that minorities and women continue to face in Cleveland, particularly in city government; several serious inadequacies in the city's affirmative action plan; deficiencies in the contract compliance program; and several inconsistencies in the Federal Government's civil rights enforcement effort.

The major problems with Cleveland's affirmative action plan are the following: (1) it fails to identify the specific problem areas in Cleveland's employment policies and practices which account for the underutilization of minorities and women; therefore, (2) it does not cite specific action programs that will be implemented to eliminate those problems which result in a denial of equal employment opportunity for minorities and women; (3) the goals are stated on a department-by-department basis for 1 year only; and (4) the city has not devoted adequate resources to implement an adequate affirmative action plan. In addition, the city failed to specify numerical goals and timetables for the police or fire departments, despite the fact that it has been ordered to do so by Federal authorities. There are also serious differences of opinion on the part of the city's leadership regarding the plan, which inhibits the implementation of an effective affirmative action effort. For these reasons, the Committee seriously questions whether or not the city is acting in good faith to eliminate employment discrimination.

The Committee recommends that the city of Cleveland create a department of equal opportunity to be headed by an experienced civil rights professional knowledgeable in all aspects of Federal equal employment opportunity requirements. The first responsibility of that department would be the development of an effective affirmative action plan.

The Committee also found that minorities and women are seriously underutilized by Cleveland area employers who receive city contracts. Several of the largest beneficiaries of city business employ no minorities or women in professional, technical, or administrative positions, and most do not employ minorities or women at a rate that is even close to their representation

in the Cleveland labor market. The Committee recommends that Cleveland's office of contract compliance require firms seeking city business to establish numerical goals and timetables aimed at upgrading the status of minorities and women in order to be eligible for city contracts.

The Committee also notes that various Federal agencies have different requirements which the city of Cleveland and other recipients of Federal grants must meet, and that regulations are enforced unevenly. The city of Cleveland asked 12 Federal agencies to review its plan. In their reviews some agencies found that it met their requirements, while other agencies ruled that it failed to meet their particular regulations. The Committee recommends that the U.S. Commission on Civil Rights advise the President to propose and Congress to enact legislation that would consolidate all equal employment opportunity oversight and enforcement activities involving Federal grants to State and local governments and to private sector organizations into one Federal agency that would have responsibility for developing uniform regulations and enforcement procedures.

The Ohio Advisory Committee firmly believes that, with the support of the Commission, the recommendations included in this report can be implemented and can substantially contribute to the realization of equal employment opportunity in Cleveland, Ohio.

Respectfully,

Henrietta H. Looman
Chairperson

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Chapter 1

Introduction

In many ways Cleveland, Ohio, is a vibrant city. It is a major industrial center which boasts a world renowned symphony orchestra, one of the Nation's most respected art museums, four major league professional sports teams, and a population which includes members of virtually every nationality, race, and ethnic group.

Cleveland is a diverse and paradoxical city. One of the Nation's best medical schools is located on the east side, as are some of the Nation's worst elementary and secondary schools. Very wealthy and very poor people live within a few miles of each other. Cleveland's boosters refer to it as "The best location in the Nation," while its detractors unaffectionately call it "The mistake on the lake."

Cleveland is a microcosm of large American cities, particularly of older northern and midwestern industrialized cities. If there is a single issue which could be identified as being of greatest concern, particularly for minorities and women, it would be jobs, or the lack of them.

In an attempt to open up employment opportunities for minorities and women within city government, the city of Cleveland developed an affirmative action plan in May 1977. Because of the representativeness of Cleveland, and because of recent civil rights enforcement efforts in the city, the Ohio Advisory Committee to the U.S. Commission on Civil Rights examined employment practices in the Cleveland metropolitan area, focusing on employment within city government. That investigation revealed a history of discrimination which will not be rectified by the recently adopted affirmative action plan.

A number of factors, several of which the city has little control over, affect the economic climate and employment opportunities available in Cleveland. But the city does have the opportunity and the authority to improve employment opportunities significantly, particularly for minorities and women in city government. That the city has not done so in the past is documented in the following pages. The Ohio Advisory Committee offers a number of policy recommendations which, if adopted, would improve the employment opportunities for minorities and women in city government and throughout the Cleveland metropolitan area.

Chapter 2

Cleveland's Employment Profile

With a population of 638,793, Cleveland ranked as the 18th largest city in the U.S. in 1975.[1] The Cleveland SMSA (including Cuyahoga, Geauga, Lake, and Medina counties) had a total population of 1,975,400 in 1975 making it the 17th largest in the Nation.[2]

According to the 1970 census, 39 percent of the city's residents were minority and 53 percent were female. For the SMSA, 17 percent were minority and 52 percent were female.[3] The city's 1975 civilian labor force of 266,000 included 89,000 (33 percent) minorities and 112,000 (42 percent) women, while the SMSA labor force of 887,000 included 134,000 (15 percent) minorities and 348,000 (39 percent) women.[4]

These figures, however, do not reflect the dynamic nature of the Cleveland metropolitan area's population, work force, or economy. Over the past 25 years, major industrial centers in the northeast and midwest have lost people, jobs, and money to the south and southwest, and cities in all regions of the country have experienced similar migrations from the central city to the suburban ring. These demographic shifts have seriously affected the employment status of minorities and women, a disproportionate number of whom rely on employment within central cities.[5] Cleveland is no exception.

The Suburbanization of Cleveland's Economy

After peaking at 914,808 in 1950, the population of the city of Cleveland has steadily declined to 638,793 in 1975. During those years the population of the Cleveland SMSA increased from 1,532,574 to 1,975,400 because of the growing suburban population.[6] Firms in most industries have been leaving the city since the 1950s and, in general, have relocated in the suburbs.[7] One result has been a declining central city work force and an increasing suburban one. The city's civilian labor force reached its peak in 1950 at 413,304 and dropped to 302,514 by 1970.[8] Between 1960 and 1970 the number of jobs in the city declined by 12.9 percent while jobs in the suburban ring increased by 62.6 percent.[9] As firms and workers have left the city, the tax base of the city has declined. Between 1958 and 1968 Cleveland's property tax base declined by $95.3 million, resulting in a loss of property tax revenues of more than $1.4 million annually.[10]

Manufacturing accounts for a larger proportion of jobs (31.8 percent as of 1974) than any other industry in the Cleveland SMSA.[11] The city of Cleveland is one of the Nation's leading manufacturing centers. But flight of firms from the city to the suburbs has been higher for manufacturing firms than for almost any other industry. Between 1958 and 1972 the city experienced a net loss of 640 (21.5 percent) of its manufacturing firms and 49,800 (27.5 percent) of its manufacturing employees. At the same time, the number of firms in the suburbs increased by 954 (89.2 percent) and the number of suburban manufacturing employees increased by 44,700 (48.1 percent).[12]

One industry that has experienced substantial growth in the city is the service industry. Between 1948 and 1967 this sector of Cleveland's economy grew by almost 30 percent. At the same time, the growth rate of the service industry was even greater in the suburbs.[13] Projections for the year 1985 indicate that an increasing proportion of the area's work force will be employed in the service industry.[14] In other words, the economy of the city of Cleveland and of the Cleveland SMSA has become more diversified in recent years, and will become, it appears, more diversified in the near future.

Perhaps more significant than the industrial mix of the city of Cleveland and its suburbs is the distribution of workers by occupation and income. In general, city residents are employed in lower paying positions than suburban residents, are less likely to work year round, and earn less than suburban residents employed in the same occupation.[15] The median family income of city residents in 1969

was $9,107 compared to $11,407 for the Cleveland SMSA. While 35.1 percent of Cleveland area families lived within the city limits, 65 percent of those who earned less than $3,000 in 1969 lived within the city, 80 percent of those earning $10,000 or more lived in the suburbs.[16]

Blacks and women made up a larger proportion of both the city and suburban labor market in 1970 than in 1950. However, a disproportionate share of these increases occurred within the city.[17] Black city residents earn less than black suburbanites, even among those employed within the same occupation, and women living in the city earn less than their suburban counterpart.[18] In 1970 the city contained 35.2 percent of the SMSA's civilian labor force but 52.1 percent of the SMSA's unemployed. Again, while the city housed 35.1 percent of all families living in the area, it contained 68.8 percent of the Cleveland area families living on incomes below the poverty level.[19] As the Cleveland Planning Commission stated in December 1973, "Cleveland is the residence of the region's poor."[20]

These demographic shifts, which have negatively affected Cleveland and many other cities, have not gone unnoticed by public officials. Several recommendations have been offered to counter these trends. In its March 1977 newsletter, the Conference on Alternative State and Local Public Policies, an organization of State and local public officials, offered a series of recommendations, including:

- That economic supports and incentives be targeted to areas of highest unemployment.
  - a. Any regional development corporation, for example, must provide specific criteria for directing investments in these areas.
  - b. Any supports to business created through the tax system must be designed to bring private investments back to urban areas.
- That financial institutions be required, as a condition of their charters, to give priority to the credit needs of the communities they are chartered to serve.
  - a. In allocating charters and branches, priority should be given to banks that emphasize community credit and economic development needs.
  - b. License renewal should be contingent upon regular demonstration of service to communities.
- That the inordinate tax burdens of urban communities be relieved.
  - a. Tax measures should be developed to equalize property tax burdens throughout each State and thereby to ensure evenhanded funding for human service and education programs.
  - b. The Governors should immediately pledge to target new revenues from Federal welfare reform to urban and other chronically depressed communities.
- That corporations which relocate from urban areas be required to provide advance notice to their workers and the communities in which they are located and to provide financial compensations to those workers and communities. (A law in Wisconsin requires corporations to provide 60 days notice before closing down operations. A bill under consideration in the Ohio Legislature would require a 2-year notice and would also require corporations relocating to pay into a State community assistance fund 10 percent of the annual wages of laid-off workers.)

The Economic Status of Minorities and Women

The economic development of the city of Cleveland and the Cleveland metropolitan area has followed a pattern similar to that of many other cities, particularly older industrialized cities in the northeast and midwest. At the same time, the changing economic status of minorities and women in Cleveland has generally followed the national picture.

The National Perspective

Over the past two decades minorities and women have accounted for a larger proportion of the population and work force. While many have moved into professional positions, they are concentrated in the lower paying professional jobs. The income of minorities as a proportion of white income has improved slightly although the absolute difference has increased. Women, however, have fallen further behind men both relatively and absolutely.

Within specific occupational categories and at each level of educational attainment, minorities still earn less than whites and women earn less

than men. At the bottom of the economic spectrum, unemployment for minorities and women has not improved compared to whites or men, and minority- and female-headed families constitute a larger proportion of the poverty population in the 1970s than they did two decades earlier.

Minority Trends

The black population of the U.S. has steadily increased from 10.5 percent of the total population in 1960 to 11.1 percent in 1970, and 11.5 percent in 1975.[21] Blacks constituted 88 percent of all nonwhites in the Nation and 98 percent of all nonwhites in the city of Cleveland in 1970.[22]

Minorities constituted 11.1 percent of the civilian labor force in 1960 and 1970, and 11.4 percent in 1974.[23] Blacks constituted 4.3 percent of all professional, technical, and kindred workers in 1959, 6.5 percent in 1970, and 7.9 percent in 1974.[24] While this represents some progress, the proportion of black professionals still does not equal their proportion of the total labor force. And although blacks have been moving into professional jobs in recent years, they remain concentrated in the lower paying professional positions. For example, 1 percent of all engineers were black in 1974 while 9 percent of all noncollege teachers were black.[25]

For the unemployed, little progress has been made. Since 1960 minority unemployment has remained at approximately twice the white employment rate.[26] But the official unemployment figures underestimate the actual extent of unemployment, particularly for minorities. To be included among the officially unemployed, one must be out of work and have actively looked for work in the previous 4 weeks. Those who want a job but who have not actively sought work recently because they do not believe a job is available (discouraged workers) and those working part time but who would prefer a full-time job if one were available, are not included in the official unemployment figure.[27] If these two groups of workers (discouraged workers and part-time workers seeking full-time jobs) were added to the official unemployment rate, the National Urban League estimated that for the fourth quarter of 1976 the national unemployment rate would be 13.7 percent instead of 7.3 as reported by the U.S. Department of Labor. For minorities the figure would be 23.3 percent rather than 12.6 percent, while for whites the figure would be 12.3 percent instead of the officially reported 6.6 percent. According to Urban League calculations, the minority/white unemployment ratio would be 1.94 as opposed to 1.91 reported officially.[28]

Even with these qualifications, the severity of unemployment is understated, particularly for minorities. Among those who are unemployed, minorities are more likely to be unemployed for extended periods. Among minorities who were unemployed in the fourth quarter of 1976, 18.0 percent had been without work for 27 weeks or more compared to 16.1 percent of whites. For those who are without jobs, whites are more likely to have voluntarily chosen that status. Nine percent of the minorities who were unemployed at the end of 1976 were officially listed as job leavers compared to 14 percent of whites.[29]

To understand unemployment in the United States, particularly how it affects racial minorities, it is necessary to look beyond the official unemployment rate. The income of minority families relative to whites has risen and fallen with the changing health of the economy in general. When the economy is healthy, the income of minorities rises relative to the income of whites. During recessionary periods, minorities suffer more and this is reflected in the declining income of minorities compared to whites. In 1960 the median minority family income was 55 percent of the white median. This figure reached 64 percent in 1970, dropped to 60 percent in 1973, and climbed to 65 percent in 1975. The absolute gap, however, has increased from $4,733 in 1960 to $4,947 in 1975.[30]

Official income figures reported by the Census Bureau, like the unemployment figures, must be qualified. The actual income differential between minority and white families is greater than the official figures indicate. As economist Victor Perlo points out, census figures undercount minorities more than whites (particularly in low-income areas), they include the Hispanic population in the white rather than the nonwhite category, and they fail to take into consideration capital gains or wealthholdings in general (a disproportionate amount of which goes to white families). Perlo estimated that black income in 1972 was actually closer to 54 percent of white income rather than the 59 percent reported by the Census Bureau.[31]

Two principal reasons why minorities earn less than whites are: (1) minorities receive inferior education and training, and (2) they are located in less prestigious and lower paying positions. Even those with comparable levels of education still earn less than whites. For example, among black families in which the family head attained 4 or more years of college, 29.4 percent earned $25,000 or more in 1975 compared to 39.3 percent of white families.[32] Among workers within each occupational category, blacks earn less than whites. For example, the median income of black male professionals was $7,763 compared to $10,735 for whites.[33]

At the other end of the economic scale (those living on incomes below the poverty level), blacks were worse off relative to whites in 1974 than in 1959. While the total number of poor families (black and white) declined over these years, black families accounted for 23.6 percent of all poor families in 1959, 28.5 percent in 1970, and 30.5 percent in 1974.[34]

At the national level, blacks have made some progress according to certain economic indicators. Other indicators suggest that virtually no progress has been made. An examination of the changing status of women also shows a combination of progress in some areas and retrogression in others.

Female Trends

Women have accounted for approximately 51 percent of the Nation's population since 1960.[35] Their proportion of the labor force has steadily grown from 32.2 percent in 1960 to 36.7 percent in 1970, and to 38.5 percent in 1974.[36] The proportion of professional, technical, and kindred workers who are women has also increased—from 38.4 percent to 39.8 percent of all such workers. At the same time, there has been an increasing proportion of women as clerical workers. Whereas women constituted 68.0 percent of all clerical workers in 1960, this figure reached 73.5 percent in 1970.[37] In other words, women have been entering the labor force in larger numbers but primarily in jobs traditionally held by women.

Again, women accounted for approximately 39 percent of all professional workers between 1960 and 1970. As in the case of racial minorities, women who are in professional positions remain concentrated in the lower paid jobs as table 1 indicates.

The unemployment rate of women compared to men has continually worsened since 1960. In 1960 the official unemployment rate for women was 5.9 percent compared to 5.4 percent for men. In 1970 the comparable figures were 5.9 percent and 4.4 percent; in 1974 they were 6.7 percent and 4.8 percent. In other words, the difference between the percentage of women and men officially listed as unemployed has increased from 0.5 to 1.9 since 1960.[38]

The income of women has steadily declined relative to the income of men. Among year-round, full-time workers, the median income of women was 60.6 percent of the median income of men in 1960, 59.2 percent in 1970, and 57.3 percent in 1974.[39] Between 1960 and 1970, the median income of women fell further behind that of men in every occupational category except managers and administrators, and at each educational level except those with 5 or more years of college.[40]

The proportion of families headed by women has increased from 10.2 percent of all families in 1960 to 11.5 percent in 1970 and to 13.0 percent in 1974. While the percentage of female-headed families living on incomes below the poverty level has declined, the decline has been even greater for families headed by males. In 1960 female-headed families were almost three times as likely as male-headed families to be in poverty and in 1970 almost five times as likely; in 1974 female-headed families were six times as likely to be poor.[41]

The question of whether or not the economic status of minorities and women in the United States improved over the last few years cannot be answered with a simple "yes" or "no." There are pockets of progress but there are also areas where minorities and women have fallen further behind. The same is true for the city of Cleveland.

The Local Perspective—Cleveland

The changing economic status of minorities and women in the city of Cleveland is similar to that for the Nation as a whole. Minorities and women account for a larger proportion of Cleveland's population and work force. Many have moved into professional occupations, but primarily the lower paying ones. The income of minorities in Cleveland has improved, albeit very slightly, compared to the income of whites, and women have fallen further behind men.

TABLE 1

Selected Professional Occupations by Sex: 1960 and 1970

Occupation	1960		1970	
	% Men	% Women	% Men	% Women
Lawyers and Judges	96	4	95	5
Physicians	93	7	91	9
Engineer	98	2	98	2
Teachers (except college and university)	28	72	30	70
Social and Recreational Workers	37	63	41	59
Librarians	15	85	19	81

Source: U.S. Bureau of the Census, *Occupational Characteristics*, 1970 Census of Population, PC(2)–7A, pp. 593–594, and *Occupational Characteristics*, 1960 Census of Population, PC(2)–7A, pp. 21–22.

Minority Trends

Minorities earn less than whites and women earn less than men within specific occupational groups and at each level of educational attainment. Minority unemployment remains higher than that of whites, but the unemployment rate for women is lower than that for men in Cleveland. And while the total number of poor families has declined, minority and female-headed families constitute a larger proportion of poor families in the 1970s than they did 10 years ago.

The black population of the city of Cleveland increased from 29.8 percent of the total in 1960 to 38.3 percent in 1970.[42] During these years the black proportion of the civilian labor force increased from 26.9 percent to 35.8 percent.[43] Among professional, technical, and kindred workers, the proportion of blacks jumped from 5.2 percent to 27.4 percent.[44] Again, while this represents substantial progress, blacks still remain significantly underrepresented within professional occupations in the city of Cleveland. As in the case of blacks nationally, black professionals in Cleveland have not entered the higher paid positions in great numbers. In 1970 blacks accounted for 2.6 percent of all lawyers and judges, 2.2 percent of physicians, and 2.1 percent of all engineers.[45]

Black unemployment in Cleveland has remained consistently higher than unemployment for the city in general. In 1960 the official black unemployment rate was 12.4 percent compared to 7.5 percent for the total city work force.[46] In 1970 the comparable figures were 7.3 percent and 5.2 percent,[47] and in 1975 they were 13.0 percent and 11.5 percent.[48] Since the black population is included in the total city work force, the difference between black and white unemployment is, of course, larger than the difference reported here between the black unemployment and the total city work force unemployment rates.

The median income of black families has improved slightly as a proportion of the median income of all families. In 1960 the median income of black families was 80.0 percent of the median for all families compared to 83.6 percent in 1970.[49] Again, the difference between blacks and whites is larger than these figures indicate since black families are included in the citywide median.

Cleveland blacks also earn less than whites within occupational categories and at each educational level. For example, black professionals in Cleveland earned 86.4 percent of that earned by Cleveland professionals in general in 1970, and black skilled craftworkers earned 87.3 percent of the citywide median in 1970.[50] Blacks with 4 years of college earned 82.4 percent of the citywide median and those with 4 years of high school earned 73.8 percent.[51]

White families in the city of Cleveland have moved out of poverty at a faster rate than black families. While the proportion of black families in the Cleveland SMSA increased from 12.6 percent to 14.8 percent between 1960 and 1970, the proportion of poor families who were black increased from 36.8 percent to 46.3 percent.[52]

At the national level and for the city of Cleveland, the findings regarding the changing status of minorities are mixed. The same is true for women.

Female Trends

Women constituted 51.3 percent of Cleveland's population in 1960, and 52.6 percent in 1970.[53] The civilian labor force, however, has changed more markedly. In 1960 women accounted for 34.8 percent of the civilian labor force, but by 1970 this figure jumped to 40.2 percent.[54] Women have increased their representation among professional workers from 42.8 percent in 1960 to 47.9 percent of all professionals in 1970, but their representation among clerical workers has increased even more—from 63.7 percent to 71.0 percent.[55] Among those who have entered professional occupations, most are employed in the lower paying jobs. In 1970 women accounted for 68.5 percent of all elementary and secondary teachers, 55.9 percent of all social workers, and 79.3 percent of all librarians in the Cleveland SMSA. On the other hand, they accounted for just 6.7 percent of lawyers and judges, 9.8 percent of physicians, and 1.1 percent of engineers.[56]

Women have been more successful than men in avoiding unemployment, at least according to official figures. In 1960 the unemployment rate of Cleveland women was 7.3 percent compared to 7.6 percent for men.[57] Comparable figures for 1970 were 4.9 percent and 5.4 percent,[58] and in 1975 they were 11.1 percent and 11.8 percent.[59]

The earnings of women, however, have fallen further behind those of men. Among year-round,

full-time workers in the Cleveland SMSA, the median income of women was 56.8 percent of the median income of men in 1960 and 52.5 percent in 1970.[60] Even among those within comparable occupations and with comparable levels of educational attainment, Cleveland area women earned less than men. For example, women professionals in Cuyahoga County (the county in which Cleveland is located) had a median income of 60.1 percent of the median income for professional men in 1970. Among clerical workers, women earned 62.7 percent of what men earned.[61] Among part-time and full-time workers in the Cleveland SMSA, women with 4 years of college earned 40.3 percent of what men earned, and, for those with 4 years of high school, the figure was 39.4 percent.[62]

The proportion of families headed by women in the Cleveland SMSA increased from 9.3 percent in 1960 to 11.7 percent in 1970.[63] The proportion of poor families headed by women increased even more—from 44.1 percent to 49.1 percent.[64] Table 2 provides a brief overview of the changing status of minorities and women for the Nation and for the city of Cleveland.

Cleveland City Government

Employment practices of Cleveland city government reflect the patterns noted above. Minorities and women are underutilized at high level, better paying positions, and they are concentrated in the less attractive and lower paying jobs. Table 3 indicates how the distribution of minorities and women with city government in 1976 compares with their distribution in the Cleveland labor market as of 1970.

The proportion of blacks in city government is roughly equal to their representation in the Cleveland labor market, even within professional, technical, administrative, managerial, and official positions. However, the income of black city workers remains far below that of whites. The median income of black workers in 1974 was 84.3 percent of the median income of whites.[65] Among professional, technical, administrative, managerial, and official workers, 38 percent of all blacks earned $13,000 or more compared to 58 percent of whites (as of 1976).[66]

Women are clearly underutilized since they constitute 13.7 percent of city government workers, but are 40.2 percent of the Cleveland labor market. Not surprisingly, the underutilization of women is greatest in the professional, technical, managerial, and official positions; women are concentrated in clerical positions more so in the city than in the Cleveland labor market. As of 1974, the median income of women working for the city was 64.5 percent of the median income of men.[67] The advantage white men have in city employment is indicated by the fact that in 1976 they held 86.4 percent of all jobs paying $13,000 or more though they accounted for just 58.5 percent of all employees.[68]

The employment status of minorities and women has changed little in recent years. In 1967 blacks accounted for 32 percent of the city government work force. This figure increased to 37 percent in 1968[69] but dropped to 35 percent in 1976.[70] While the median income of blacks increased from 78.0 percent to 84.3 percent of the white median between 1967 and 1974,[71] the gap between the black and white median in terms of dollars actually increased from $1,649 to $1,792.[72]

The first survey of the distribution of city government workers by sex was conducted in 1974 by Cleveland's Community Relations Board. According to that survey, 13.8 percent of all employees were women[73] compared to 13.7 percent in 1976. While the proportion of female employees who worked in professional jobs increased from 9 percent to 17 percent of all women workers, the proportion in official or administrative jobs dropped from 4 percent to 1 percent; the proportion of women employed in skilled craft positions remained at less than 1 percent of all female employees.[74]

At the national level, in the Cleveland metropolitan area, and in the city government of Cleveland, minorities and women are underutilized in higher status, better paying jobs, and they are concentrated in the less attractive, lower paying positions. While there are some areas where progress has been made, this general pattern has not changed in recent years.

Discrimination—A Marginal or Central Characteristic of America?

A wide range of perspectives have been offered over the years to explain the phenomenon of dis-

TABLE 2

Economic Status of Minorities and Women, U.S. and Cleveland: 1960 and 1970

	United States		Cleveland	
	1960	1970	1960	1970
Population				
Minority % of Total	10.5%	11.1%	29.8%	38.3%
Female % of Total	50.7%	51.3%	51.3%	52.6%
Employment				
Civilian Labor Force				
Minority % of Total	11.1%	11.1%	26.9%	35.8%
Female % of Total	32.3%	36.7%	34.8%	40.2%
Professional, Technical, & Kindred Workers				
Minority % of Total	4.3%	6.5%	5.2%	27.4%
Female % of Total	38.4%	39.8%	42.8%	47.9%
Unemployment Rate				
Ratio of Minority to Total	1.85	1.67	1.65	1.40
Ratio of Female to Total	1.07	1.20	0.97	0.94
Income				
Median Annual Income				
Ratio of Minority to Total	0.58	0.66	0.80	0.84
Ratio of Female to Total	0.61	0.59	0.57	0.53
Poverty Status				
Minority % of Total	23.6%	28.5%	36.8%	46.3%
Female % of Total*	23.7%	37.1%	44.1%	49.1%

*Refers to female-headed families as percent to total families in poverty.

Sources: Data compiled from U.S. Bureau of the Census and the U.S. Department of Labor. (For specific references, consult text and relevent sources in chapter 2).

TABLE 3

Distribution of Blacks, Hispanics, and Women in City Government in 1976 and in the Cleveland Labor Market in 1970

	Blacks (% of Total) Labor Market/City Gov.		Hispanics (% of Total) Labor Market/City Gov.		Women (% of Total) Labor Market/City Gov.	
Total Labor Market	35.8%	34.6%	1.6%	0.5%	40.2%	13.7%
Professional & Technical	27.4%	28.6%	1.2%	1.0%	47.9%	21.0%
Officials, Managers, & Administrators	21.3%	26.5%	1.7%	0.0%	23.2%	10.2%
Clerical	30.3%	44.4%	1.0%	1.0%	71.0%	76.8%
Craft	24.5%	35.9%	1.4%	0.3%	5.3%	0.7%
Service	48.8%	72.7%	1.0%	0.5%	60.0%	3.8%

Source: Affirmative Action Plan, City of Cleveland.

crimination. Policy implications vary from one explanation to the next, and depending upon the "school of thought" to which one subscribes, the proper role of Government may be to do nothing or it might be to intervene much more in the social life of the American people.

During the 1950s the predominant view was that discrimination was primarily a problem of prejudicial attitudes held by individual members of the majority group. The policy objective was to foster better intergroup relations by changing those attitudes. Education, persuasion, as well as government legislation forbidding discrimination, were some of the tactics that would eventually eliminate those attitudes and lead to the assimilation of minorities into the mainstream of American life.[75]

A conservative response to this position maintained that the competitive pressures of the free market would eventually eliminate any "tastes" for discrimination since satisfying those tastes would eventually prove costly and force the discriminator out of the marketplace. While education and moral suasion are appropriate tactics from this perspective, legislation is not. Such government action, it is argued, hinders individual freedom and might eventually result in more discrimination rather than less.[76]

In the 1960s the term "institutional racism" became virtually a household word. Discrimination was viewed less in terms of individual attitudes and more in terms of the results of institutional policies and practices. By equalizing opportunities in the areas of education, training, and employment, the task of assimilating protected groups into the mainstream could be accomplished.[77] Civil rights legislation passed in the 1960s and early 1970s evolved from this liberal interpretation of intergroup relations.

This viewpoint has not gone unchallenged. The late 1960s witnessed a revival of biological explanations for the socioeconomic differences among groups. Since intelligence is determined primarily through inheritance, according to this perspective, and because a meritocracy requires incentives to ensure that the most intelligent assume the most responsible positions in society, inequality is necessary and beneficial for the community as a whole. Government programs are not only doomed to failure since heredity rather than environment shapes human intelligence, but they also threaten the meritocratic principles on which society should be based.[78]

A more serious challenge to civil rights enforcement activities has evolved in response to the concept of affirmative action. This perspective maintains that civil rights activities have shifted from their proper focus of equal opportunity to an inappropriate objective of equal results. Goals and timetables are viewed as illegal quotas which constitute "reverse discrimination." While not explicity rooted in biological terms, it is argued that individual liberties and meritocratic principles are threatened.[79]

Despite their differences, the theories discussed above are based on the assumption that the central defining characteristics of American society are sound and that discrimination is a marginal characteristic which will eventually be resolved within the current institutional framework. A radical interpretation which has evolved in recent years suggests this is not the case. According to this interpretation, discrimination is rooted in the structure of capitalism itself. The basic conflict in that system revolves around the exploitative relationships between employers and workers. Employers use discrimination to foster divisions among workers and discourage any organized activity by the workers as a group that would threaten corporate profits. It is the pursuit of profits which motivates corporations to flee from central cities to suburbs and from the northeast to the south and southwest. Cheaper labor, more favorable tax policies, and the desire to avoid the problems of central cities motivate employers to leave precisely those areas of the country where minority populations are concentrated. According to this perspective, therefore, discrimination is not an individualistic or attitudinal problem; rather it is a structural problem. To improve the material conditions of minorities and women, according to this perspective, requires a total restructuring of the prevailing economic system from one based on private ownership of property (in which the pursuit of profits is the primary objective) to one of collective ownership (in which the primary objective is to meet human needs directly).[80]

In Cleveland, and in other cities throughout the Nation, a variety of forces are operating to perpetuate the demographic patterns cited above. Prejudicial attitudes certainly have not disap-

peared. Various institutional practices continue to deny minorities and women equal employment opportunity. The structural development of the economy (e.g., suburbanization) does have a negative affect on protected groups.

Two specific factors which contribute to the denial of equal employment opportunity for minorities and women in the city of Cleveland and on which the subsequent chapters of this report will focus are: (1) intentional discrimination on the part of city officials; and (2) inadequacies in the Federal Government's civil rights enforcement effort. While it may be virtually impossible to quantify the extent to which any particular factor contributes to the overall pattern of discrimination, clearly these two factors are of no small consequence in Cleveland.

Notes to Chapter 2

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10. *Jobs and Income*, pp. 100, 101.

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31. Victor Perlo, *Economics of Racism USA* (New York: International Publisher, 1976), p. 27–33.

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33. Ibid., p. 373.

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37. Ibid. p. 35.

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46. *1960 Census*, pp. 279, 333.

47. *Social and Economic Characteristics*, pp. 421, 505.

48. *Geographic Profile*, p. 17.

49. *1960 Census*, pp. 321, 338; *Social and Economic Characteristics*, pp. 469, 529.

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51. Ibid., pp. 1742, 1743.

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53. *1960 Census*, p. 78; *General Population Characteristics*, p. 105.

54. *1960 Census*, p. 279; *Social and Economic Characteristics*, p. 421.

55. *1960 Census*, p. 293; *Social and Economic Characteristics*, p. 433.

56. *Detailed Characteristics*, p. 1143.

57. *1960 Census*, p. 279.

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72. Ridenour interview; "Employment Survey: 1967–1968."

73. "Minorities and Women in City Government."

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Chapter 3

Discrimination: Past and Present

Cleveland officials take pride in their city being a longtime leader in the civil rights field. Officials claim Cleveland was the first city in the country to create, by ordinance, an agency of local government to deal with the problems of intergroup relations and discrimination when it established the community relations board in 1945.[1] On the first page of the affirmative action plan recently issued by the city, Mayor Ralph Perk wrote:

> The City of Cleveland has long been a forerunner in the field of equal employment opportunity. When our Fair Employment Practices ordinance became effective in 1950 we were among the first cities to enact such a legislation.
>
> Historically, the city's policy has been to hire and promote its employees without regard to race, color, religion, sex, national origin, age, or handicap.

But the record does not support these claims. Recent court decisions, administrative rulings of Federal civil rights enforcement agencies, and testimony of many individuals long familiar with city government document a history of discrimination.

Court Action Against Cleveland

Many complaints of discrimination which have been filed recently against Cleveland involve employment practices of the police and fire departments. (The departments account for more than one-third of city government workers.) Both departments have been found guilty of discriminatory employment practices and both are facing even more litigation. Below is a brief summary of the legal action which has been initiated against the police and fire departments in the city of Cleveland.

Racial Discrimination in Cleveland's Police Department

In 1972 Cleveland attempted to add 188 police officers to its force, largely through the use of special Law Enforcement Assistance Administration (LEAA) money under the Cleveland Impact Cities Program. Entrance examinations were conducted in July 1972 for the positions.

Of all persons who took the examination, 23 percent were black or Hispanic; however, 64 percent of those who failed the examination were black or Hispanic. The Shield Club, a black and Hispanic patrol officers' association, went to court charging that the test results were prima facie evidence of adverse racial impact. On December 21, 1972, the U.S. district court held that the city failed to rebut the charge of discriminatory impact, and ordered that 18 percent of those hired off the 1972 eligibility list must be either black or Hispanic.[2] The court did not address the issue of intentional or historical discrimination in this order.

On July 6, 1974, two further orders of the same court found racial discrimination in the city's pre- and postexamination recruitment practices (screening procedures such as background check, polygraph, and psychiatric checks) and in the city's treatment of those few black and Hispanic officers who actually were hired.[3] Such discrimination involved the use of a racially discriminatory seniority points system as a criterion for promotion and the use of racially discriminatory promotion examinations. Both practices were outlawed by the court.

In 1976, in two separate orders, the court concluded that Cleveland had purposefully and intentionally engaged in discrimination by failing to revise its police assignment and transfer policies as ordered previously by the court.[4] The attempt to promote a group of white police officers shortly before the expiration of the old promotion examination was also found to constitute intentional discrimination.

In 1974 a new examination, acceptable to the court and the plaintiffs, was given for police officers. Of the 400 highest ranking applicants for appointment, 39.5 percent were either black or

Hispanic. Based on the results of the 1974 exam, the court held that any deviation of more than 2 or 3 percent on either side of the 39.5 percent figure in appointments from the list would again raise the question of discrimination in screening procedures used by the department.[5]

During the lengthy term of the Shield Club litigation, the percentage of blacks employed in the Cleveland police department slowly rose from approximately 7.9 percent to 8.9. This must be contrasted, however, with the total 1970 black population for the city of 38.3 percent and with the fact that in 1976, blacks and Hispanics constituted 64 percent of all persons employed by the city of Cleveland, exclusive of the department of public safety.[6]

The original Shield Club case has been followed by another suit recently filed by the Shield Club.[7] The complaint in Shield II notes that the number of black and Hispanic police officers has actually declined by 31 in the 4 years the Federal court has exercised jurisdiction over the Cleveland police department. For some time the city refused to hire any officers from the 1974 eligibility list. The number of police officers in the department has declined by nearly 20 percent in the past 4 years, even though the number of authorized positions remains the same.

Although the city claims that fiscal problems are the cause of the decline, on several occasions the city has received Federal money, chiefly from the LEAA, specifically to hire new officers. The money has been spent but little hiring has been done from the racially neutral 1974 roster.[8]

The present Shield II case alleges these acts constitute constitutional violations as well as violations of the Omnibus Crime Control and Safe Streets Act of 1968 (LEAA funding) and the State and Local Fiscal Assistance Act of 1972 (revenue sharing legislation). The plaintiffs seek a timetable for hiring police officers from the 1974 list to return the department to its authorized strength level or, alternatively, repayment of all Federal monies received from LEAA and revenue sharing spent by the city of Cleveland for support of the police department.

Sex Discrimination in Cleveland's Police Department

De jure discrimination on the basis of sex has also been found against the Cleveland police department. At the same time the Shield Club litigation sought more equitable representation of blacks and Hispanics on the police force, many other cases were filed against the department on behalf of women. These plaintiffs either sought employment with the department or were already on the force and sought relief from a variety of actions and regulations which allegedly constituted discrimination on the basis of sex.

In 1972 alone there were eight cases filed on behalf of women alleging sex discrimination by the Cleveland police department.[9] Until 1973 the city of Cleveland had on its books an ordinance that restricted the number of women in the police department to 50.[10] The ordinance was repealed in 1973, but its existance served as a basis for a finding of *de jure* discrimination by the city against women.[11]

Another major case, filed in 1974 and currently being tried, raises substantial questions of sex discrimination by the Cleveland police department (*Hardin v. City of Cleveland*).[12] This suit challenged the maintenance of separate hiring lists for males and females, a system of recruitment which has a disparate effect upon women, and the policy of assigning only women to the Women's Bureau. The city's defense to the issue in this case is expected to be founded on its recently announced affirmative action plan. After the case was filed, the city abandoned the use of separate hiring lists and changed the organization of the Women's Bureau.

The second major discrimination case involving the police department is also still pending (*Clayton v. City of Cleveland*).[13] *Clayton* charges sex discrimination in the department's transfer and promotion policies, and in fringe benefits which accrue to "wives" as opposed to "spouses" thus diminishing the value of women police officers' pension rights. Settlement negotiations have taken place in this case but a stay of all action has been agreed to by the parties pending appeal in the Shield Club litigation.[14]

A number of other issues of sex discrimination have resulted in lawsuits against Cleveland's police department. In 1972, for example, the department

excluded women from its student police cadet program. The resulting suit was settled by a consent decree and 10 female cadets were enrolled in the program by March 1973.[15]

Loy v. City of Cleveland[16] challenged the use of the city's "1 in 3" civil service selection rule to deny employment to a woman for "psychiatric" reasons. The "1 in 3" rule allows the city to hire any one of the top three scoring applicants on the civil service test. The "psychiatric" reason said to disqualify the plaintiff was her failure to keep a neat house. The suit was dismissed by consent when the woman was sworn into the police department.

In 1973 the department's mandatory maternity leave rule was permanently enjoined.[17] The rule had required police women to quit work at the beginning of the fourth month of pregnancy and remain away from work until 3 months after childbirth. Pregnant officers now must be treated the same as any officer suffering from a temporary disability. They must be allowed to utilize their sick leave, compensatory time, and furlough time for maternity purposes. Women on leave must also be allowed to accrue seniority.

The subject of police uniforms also provided material for a lawsuit on the basis of sex discrimination.[18] The Federal court struck down Cleveland's policy which denied female officers the right to wear pantsuits when in plainclothes, standard uniform slacks when in uniform, and the right to utilize the standard uniform accessories, including handcuffs, gun belts, ammunition belts, and gloves.

Discrimination in Cleveland's Fire Department

In April 1973 Cleveland tried to hire 125 new firemen who passed the *same* written examination used to select police officers and which had been declared to be racially discriminatory in the Shield Club suit. A suit was immediately filed in Federal district court. The consent decree filed 3 days later acknowledged the discriminatory impact of the entrance exam but allowed hiring from the 1972 list so long as not less than 18 percent of those hired were either black or Hispanic.[19]

In 1975 a permanent order noted that the civil service commission had failed to develop a new job-related entrance examination for the position of firefighter and halted all hiring until a job-related exam was developed along with a plan for recruitment of minority candidates, revised screening procedures, and a method of awarding bonus points for Cleveland residents who apply for positions with the fire department.[20] This bonus system is also used by the police department.

Final judgment in the fire department case was handed down on January 17, 1977. It incorporated a very specific plan submitted by the city to implement minority recruitment, job-related examination of applicants, and nondiscriminatory screening procedures for applicants.

Administrative Action Against Cleveland

While Federal courts have found the city of Cleveland guilty of intentional discrimination, administrative actions have also been initiated by the Federal Government against the city for noncompliance with civil rights provisions of Federal programs. One of the factors that motivated the city to develop an affirmative action plan undoubtedly was pressure from Federal agencies to do so.[21]

Revenue Sharing Violations

In May 1977 the Office of Revenue Sharing (ORS) ruled that the city's employment practices violated section 122(a) of the State and Local Fiscal Assistance Act of 1972[22] (the Revenue Sharing Act) which states:

> No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [the revenue sharing program]....

The review conducted by the Office of Revenue Sharing disclosed the following discriminatory policies and practices:

1) The employment of only 325 (13.2 percent) minorities of a total of 2,465 employees of the Cleveland police department, when minorities comprise 37.8 percent of the labor market for Cleveland.

2) The employment of only 67 (5.8 percent) minorities of a total of 1,156 employees of the Cleveland fire department, when minorities comprised 37.8 percent of the labor market for Cleveland.

3) The employment of only 1,234 (12.7 percent) women, of a total of 9,744 employees of the city of Cleveland, when women comprise 40.2 percent of the labor market for Cleveland. Of these 1,234 females employees, 589 (47.7 percent) work in lower-paying clerical positions.

The Office of Revenue Sharing found the following policies and practices of the Cleveland police department to be potentially discriminatory:

1) The preemployment "Personal History Statement" which contains inquiries regarding marital status (i.e., single, married, separated, divorced, date of marriage, are you living with your wife at present time, date of present marriage, if divorced, name and address of ex-spouse); height and weight; color of hair and eyes; and arrest record.

2) Use of the sex restrictive job titles "patrolmen" and "policewoman."

3) Rule 25 of the Rules of Conduct and Discipline, which provides for a "Policewoman's Unit."

4) The logo "Our men serve all men" on Cleveland police department patrol cars, which could have a "chilling effect" on potential female applicants.

5) Inquiries regarding marital status and age and sex of children on the police department background check.

As a result of these findings, ORS asked the city of Cleveland to take the following actions:

1) Develop and implement methods for the recruitment of minorities for employment (in all positions) with the Cleveland police department. Establish goals and timetables which will enable the work force of the police department to reflect the labor market of Cleveland (which is 37.8 percent minority).

2) Develop and implement methods for the recruitment of minorities for employment (in all positions) with the Cleveland fire department. Establish goals and timetables which will enable the work force of the fire department to reflect the labor market of Cleveland.

3) Develop and implement methods for the recruitment of women for employment (in all departments and positions) with the city of Cleveland. Establish goals and timetables which will enable the city's work force (in all departments) to reflect the labor market for Cleveland (which is 40.2 percent women).

4) Eliminate policies and practices cited under no. 4 above or provide empirical evidence of their validity.

5) Provide training and promotional opportunities for those women and minorities presently employed, and those minorities and women who will be employed in the future, on an equal basis with all other employees to facilitate minority and female representation at all levels of the city work force.

6) Submit an affirmative action plan (including goals and timetables) which will accomplish the objectives stated under nos. 1, 2, 3, and 5 above to the Office of Revenue Shairing for approval. This plan shall be due no later than August 1, 1977.

7) Submit annual reports to the Office of Revenue Sharing describing progress toward the objectives stated above, under the affirmative action plan, and containing a roster of the city's employees, indicating for each: name, race, sex, date hired, starting salary, starting position, present salary, and present position. The first report shall be due January 1, 1978, and every year thereafter.

ORS asked the city to respond within 60 days with its plan to correct the violations and to implement the actions deemed necessary by that Federal agency. In June the city responded to CRS and argued, basically, that with the establishment of an affirmative action section in the office of personnel and the development of an affirmative action plan, the city had resolved the issues raised in the ORS investigation.[23] ORS, however, found the city's response unacceptable and, as will be detailed in chapter 6, further administrative proceedings will be carried out against the city if it does not satisfactorily meet ORS requirements.

Alleged CETA Violations

An administrative complaint regarding the use of Comprehensive Employment and Training Act (CETA) funds was filed with the U.S. Department of Labor, Employment and Training Administration, in April 1977, against the Cleveland Area Western Reserve Manpower Consortium.[24] The city of Cleveland is the major prime contractor with the consortium, and most of the charges in the complaint dealt with Cleveland.

The alleged violations cited in the complaint were:

1) Use of funds to rehire employees laid off in anticipation that they could be rehired with CETA money;

2) failure to give special consideration to the most severely disadvantaged and to welfare recipients;

3) failure to make public service employment opportunities available on an equal basis to significant segments of the unemployed (significant segments are defined as "those groups of people to be characterized, if appropriate, by racial or ethnic, sex, age, occupational or veteran status, which causes them to experience unusual difficulty in obtaining employment and who are most in need of the services provided by the Act." 29 C.F.R. §94.4);

4) failure to fund public service needs which had not been met and to implement new public services;

5) failure to provide transitional employment or employment in jobs that are likely to lead to regular unsubsidized employment when the unemployment rate recedes;

6) failure to remove artificial barriers to employment, such as civil service requirements, which restrict employment opportunities for the disadvantaged; and,

7) failure to allow community organizations adequate participation in the planning of programs.

In each case, the consortium has provided written assurances that these violations would not occur and that it would comply with all CETA requirements. According to the complaint, however, the assurances have been virtually ignored. Among the kinds of relief sought by the complainants are the following:

1) Substantial reduction in the percentage of "rehires" (regular municipal employees rehired with CETA funds);

2) substantial increases in the percentage of public service employment positions filled by persons entitled to special consideration under the act;

3) significant efforts to reduce artificial barriers to public employment;

4) greater opportunities for participation by community-based organizations serving the poverty community and other special target groups in planning CETA programs.

It should be noted that, although this complaint has been filed with the Employment and Training Adminstration, no ruling has yet been made.[25]

A Question of Politics?

Employment discrimination in Cleveland may well be just one of a series of problems in personnel administration which are rooted in politics. Many observers in Cleveland claim that virtually all hiring in city government is based on political affiliation rather than merit, and that the civil service commission is subservient to the political party in power.

Robert Weissman, a civil service commissioner in Cleveland, described the commission as a total fraud. He claimed it was a cartoon which serves to legitimize political patronage. According to Weissman, virtually every job at all levels in city government is a political appointment with a few exceptions, primarily in the police and fire departments. He said this has been the case since the beginning of the Perk administration, and that things were probably not much different in previous administrations.[26]

Weissman is not alone in his assessment. William O. Walker, the veteran editor and publisher of Cleveland's major black newspaper, the *Call and Post*, described the civil service commission as a joke.[27] Edward R. Stege, the lawyer for the plaintiffs in the Shield Club cases, claimed most hiring other than for patrol officers and firefighters is based on patronage, and that the function of the civil service system is to devise ways of getting around the merit system.[28] Roldo Bartimole, a former *Wall Street Journal* and *Cleveland Plain Dealer* reporter who now writes a pamphlet called "Point of View," said everybody in town knows that the way to get a job with the city of Cleveland is to bypass civil service and go straight to Republican headquarters.[29]

In a series of special reports, the *Cleveland Press* found that civil service tests have become a method of legalizing jobs for party loyalists who are hired initially as temporary appointees. Eventually, temporary appointees must take an exam, but if they fail they are given a new temporary appointment. This process continues until they eventually pass the test. Sometimes new positions must be created. This explains in part why the number of job classifications has expanded from 50, when

the civil service system was introduced almost 40 years ago, to more than 700. High level appointees do not generally have problems because their tests are oral rather than written, according to the *Press*.[30]

In 1976 the city hired a consultant, William Silverman, to study city personnel practices and other facets of city government. Upon completion of his study, Silverman told one newspaper reporter that, "The vast majority of people at City Hall are hired politically."[31]

Similar conclusions were drawn by a Washington, D.C., consultant in the McManis report of 1973. That report, also contracted for by the Perk administration, included several recommendations which, according to the *Press*, have yet to be acted upon.[32]

The Silverman report of 1976 has been the subject of much controversy in recent months. Although it was paid for with public funds, the city (prior to September 1977) refused to release it despite pressure from the local media.[33] The Ohio Advisory Committee wrote Mayor Perk requesting a copy of the report on June 3, 1977. As of September 1977, the Committee had received no response.[34] An assistant to the mayor stated in May 1977 that the administration was still studying the report.[35] (See appendices I and II relating to the Silverman report.)

Discrimination—A Fact of Life in Cleveland

City government of Cleveland has long been a source of widespread discrimination. For perhaps a variety of reasons, including intentional discrimination on the part of city officials, minorities and women remain today underutilized in the higher status, better paid positions, and they are concentrated in less attractive jobs with the city of Cleveland. A number of legal actions have evolved from this situation and some pockets of progress can be identified. But other instances of prejudice and discrimination have not been dealt with legally, and many individuals have suffered because of it.

Ione Biggs, who has worked for the city of Cleveland since 1934, recently testified on the years of discriminatory treatment she has endured.[36] In 1955 she took a deputy clerk position with the Cleveland municipal court. After 20 years, during which she claimed she received two raises totaling $500, she examined the records of the payroll department and found that men were paid more than women and that whites were paid more than blacks.

In April 1975 she filed formal complaints against the clerk of the Cleveland municipal court, the civil service commission, and the city of Cleveland with the U.S. Equal Employment Opportunity Commission and the Ohio Civil Rights Commission. In June 1975 every black employee in her office, except her, was given a raise. A new clerk of the court was elected in 1976, and, according to Biggs, conditions improved. Biggs dropped her complaint but she concluded in her testimony that, "I cannot describe the feeling I still get when I think that my hours of soul searching, frustration, bitterness, and harassment have been in vain." It should be noted that employees of the clerk of the court's office are not subject to the personnel policies of the administrative branch of city government. They are, therefore, even more vulnerable to political influence in the employment process than other city employees.

George Forbes, president of the Cleveland city council, related a recent incident of outright bigotry to Commission staff. While in the process of temporarily suspending a young black city employee, a supervisor told the youth, "I don't like black shoes, I don't like black coffee, and I don't like black niggers."[37] No matter what the circumstances were surrounding the suspension, this one statement is a harsh reminder that racial prejudice in its starkest form is still a reality.

That equal employment opportunity is not a reality in Cleveland city government is recognized by city officials. In response to this situation, the city issued an affirmative action plan in May 1977.

Notes to Chapter 3

1. Community Relations Board, City of Cleveland, Fact Sheet.

2. Shield Club v. City of Cleveland, 370 F. Supp. 251 (N.D. Ohio 1972) 5 E.P.D. 8406.

3. *Shield Club*, 8 E.P.D., para. 9606 and 9614.

4. *Shield Club*, 13 F.E.P., para. 1373 and 1394.

5. *Shield Club*, 8 E.P.D., para. 9614 at 5636.

6. Shield Club v. Perk, No. C77-346 (N.D. Ohio, filed May 6, 1977), complaint at 5 (Shield II).

7. Id.

8. Edward R. Stege, Jr., Legal Aid Society of Cleveland, staff interview, Cleveland, Ohio, June 21, 1977. The affirmative action officer of the city of Cleveland pointed out that a group of 60 persons were appointed from the 1974 list in the summer of 1977 and an additional 44 were appointed in September 1977. Approximately 37 percent of these appointees were minorities. (Mary Adele Springman, affirmative action officer, Cleveland, letter to Henrietta Looman, Chairperson, Ohio Advisory Committee, Sept. 23, 1977.)

9. Jane Picker, director, and Barbara Besser, attorney, Women's Law Fund, staff interview, Cleveland, Ohio, June 22, 1977.

10. Codified Ordinances of the City of Cleveland, sec. 1.3502, amended by Ordinance No. 2105–72, effective Jan. 10, 1973.

11. Loy v. City of Cleveland, C 74–253 (N.D. Ohio, filed Mar. 25, 1974).

12. Hardin v. City of Cleveland, No. C 74–264 (N.D. Ohio, filed Mar. 29, 1974).

13. Clayton v. City of Cleveland, No. C 73–784 (N.D. Ohio, filed July 25, 1973).

14. CLAYTON, order of Nov. 1, 1976.

15. Driscoll, v. City of Cleveland, No. C 72–1242 (N.D. Ohio, filed May 1, 1973).

16. Loy v. City of Cleveland, No. C 73–177 (N.D. Ohio, filed Feb. 16, 1973).

17. Parkinson v. City of Cleveland, No. C 73–388 and C 74–315 (N.D. Ohio).

18. Christ v. City of Cleveland, No. C 73–588 and 74–172 (N.D. Ohio).

19. Headen v. City of Cleveland, No. C 73–330 (N.D. Ohio, filed Apr. 3, 1973).

20. *Headen*, order of Apr. 25, 1975.

21. After the city developed its plan and submitted it for review to 12 Federal agencies, further administrative actions were initiated. Those subsequent actions will be discussed in chapter 6.

22. Bernadine Denning, Director, Office of Revenue Sharing, letter to Ralph Perk, May 1977.

23. Ralph Perk, letter to Bernadine Denning, June 29, 1977.

24. Administrative Complaint Regarding Use of CETA Funds by the Cleveland Area Western Reserve Manpower Consortium, Apr. 28, 1977.

25. In an October 3, 1977, letter, Lewis F. Nicolini, Associate Regional Administrator (DOL) for Ohio, informed Commission staff that written assurances for corrective action are currently embodied in the signed fiscal year 1978 CETA grants.

26. Robert Weissman, civil service commissioner, telephone interview, July 14, 1977.

27. William O. Walker, staff interview, Cleveland, Ohio, June 21, 1977.

28. Edward R. Stege, staff interview, Cleveland, Ohio, June 21, 1977.

29. Roldo Bartimole, telephone interview, May 25, 1977.

30. *Cleveland Press*, Sept. 20, 1976, pp. A–1 and A–4; Sept. 21, 1976, pp. A–1 and A–5; Sept. 22, 1976, pp. A–1 and A–3; Sept. 23, 1976, pp. A–1 and A–4.

31. Ibid., Sept. 20, 1976, p. A–4.

32. Ibid.

33. Ibid., May 24, 1977, p. B–4.

34. Henrietta H. Looman, Chairperson, Ohio Advisory Committee, letter to Mayor Ralph J. Perk, June 3, 1977.

35. *Cleveland Press*, May 23, 1977, p. A–4.

36. Ione Biggs, testimony at public hearing on women and employment, Cleveland, Ohio, Sept. 26, 1976.

37. George Forbes, staff interview, Cleveland, Ohio, June 22, 1977.

Chapter 4

An Affirmative Action Proposal

In May 1977 the city of Cleveland developed an affirmative action plan. The preface of volume I of that plan begins:

> Equal opportunity for all is an American ideal which the City of Cleveland has pursued in a variety of ways throughout its long and exemplary history.
>
> The development of this Affirmative Action Plan (AAP) is a further demonstration of the City's commitment to ensuring equal employment opportunity for all without regard to race, color, religion, national origin, ancestry, sex, age, or handicap.

Some observers argue that the plan was developed less out of a commitment to equal opportunity and more as a response to pressure from the Federal Government. (Cleveland receives more than $70 million annually in Federal aid which, among other things, meets the payroll for approximately one-half of the city work force.[1] Tom Campbell, a history professor at Cleveland State University and a candidate for mayor of the city, maintained that the possibility of a cutoff of Federal funds prompted the development of the plan.[2] Helen Williams, director of Cleveland Women Working, echoed these sentiments.[3]

The timing of the plan was propitious. At least two Federal agencies indicated to city officials in the spring of 1977 that it would have to develop an affirmative action plan to be considered eligible to participate in programs funded through those two agencies.[4] Dean Schanzel, director of the department of personnel, admitted that Cleveland may be one of the last cities to write an affirmative action plan, but, he argued, the city now has one of the best.[5]

Despite testimonials offered by city officials, there are serious problems with the affirmative action plan. There are severe deficiencies in the content of the plan, difficulties have already arisen in the city's attempts to begin implementing the plan, and there are questions as to the city's commitment to what has been put down on paper.

Content of Cleveland's Affirmative Action Plan

The affirmative action plan of the city of Cleveland is rife with problems that raise serious questions about the city's intention and ability to eliminate employment discrimination in the near future. The basic deficiency in the plan's content is the failure to identify the specific problem areas which account for how the existing employment patterns developed. As a result, the plan fails to describe specific actions to correct those problems. The plan does identify specific components of personnel administration which may have a disparate impact on minorities and women (e.g., recruitment, training, job descriptions, etc.) but, with a few exceptions, it does not indicate how they affect women in Cleveland city government.

Many of the proposed action programs call for further study and the development of recommendations whereas an affirmative action plan should specify policies and practices that account for the underutilization of minorities and women and include plans (with goals and timetables) for correcting the existing problem areas. There are some strong points in the plan and there are deficiencies. Specific components of the plan are analyzed below.

Policy Statement

Volume I of the plan, which contains the action programs proposed by the city to create equal employment opportunity, leads off with a policy statement. The equal employment opportunity policy statement signed by the mayor provides several assurances essential to an effective affirmative action plan. It states that the city's policy is to hire and promote people without regard to race, color, religion, sex, national origin, age, or handicap, and that such nondiscrimination applies to all areas of personnel including recruitment, appointment, promotion, compensation, benefits, transfers, and training and educational opportunities. Passive

nondiscrimination, according to the statement, is not sufficient and the affirmative action plan must be results oriented. It calls for all city personnel to give full cooperation and for the city to accept its responsibility to demonstrate creative leadership in this field.

One failing of the policy statement is that responsibility for implementing the plan rests with the director of personnel. This can result in the director of personnel being called upon to evaluate practices that he or she initially designed and is responsible for, thus creating a potential conflict of interest. This potential problem has been pointed out by several equal employment opportunity experts who have reviewed the plan.[6] A more appropriate approach would be to create an affirmative action or equal employment opportunity department. That department would have the same status as the department of personnel and would be responsible for implementing the plan and monitoring equal employment opportunity and affirmative action responsibilities of the department of personnel.

Dissemination of the Plan

The plans for disseminating the affirmative action plan internally, if carried out, will effectively inform city employees about the equal employment opportunity policy and the affirmative action plan. Supervisory personnel are slated to receive a copy of the plan; all prospective employees will be informed of the plan during interviews; meetings with directors, commissioners, union representatives, and other supervisory personnel are scheduled to explain in detail the affirmative action plan; and other steps are called for to communicate the policy and the plan thoroughly within city government.

Plans for disseminating this policy throughout the Cleveland area are not as comprehensive. All advertisements for jobs and all civil service announcements will include the phrase "An Equal Opportunity Employer," all public contracts will have an equal opportunity clause, agencies from which recruitment assistance is sought will be informed of the policy, and minorities and women will be shown in publications containing pictures of city employees, according to the plan.

No mention is made of specific minority or women's groups, community organizations, outreach programs, or media that will be contacted. When a particular employer has a reputation for not hiring a particular group, members of that group eventually learn where they are not wanted and are hesitant even to apply for jobs, even when that employer makes formal policy statements about equal employment opportunities. Special efforts must be made to overcome this barrier and to convince that particular group that there are employment opportunities available. One tactic available to that employer is to contact directly those specific organizations in the community which serve the group in question.

Implementation

The success of any plan depends largely on how it will be put into effect. One of the central shortcomings of Cleveland's affirmative action plan is the mechanism proposed for its implementation. In addition to the problems involved in allocating implementation responsibility within the department of personnel, as noted above, is that the number of staff assigned to carry out the various tasks is simply not adequate.

According to the city's own recommended principles for implementing an affirmative action program, one step is to "appoint a top management official...as Equal Employment Opportunity Officer (or equivalent title)."[7] Yet the city has failed to follow its own advice. The individual designated as the city's affirmative action officer is employed in the civil service classification of community relations representative III. While the median salary of all officials and administrators with the city of Cleveland falls in the $16,000 to $24,999 range,[8] the individual currently appointed as the affirmative action officer earns $16,296,[9] and the salary range for community relations specialist III is $11,094 to $18,981.[10] By its own principles, the city has not appointed an affirmative action officer of appropriate rank and authority.

An additional problem is the size of the staff. In reference to the affirmative action officer, the plan states:

> This staff person's responsibilities will include, but not necessarily be limited to:
>
> A. Developing necessary additions and amendments to the EEO Policy and AAP.

B. Designing appropriate audit and reporting systems which will measure the effectiveness of the AAP (achievement of goals and timetables) and will identify problem areas.

C. Developing and monitoring implementation of recommended solutions for problem areas.

D. Serving as liaison between the City and State and Federal enforcement agencies.

E. Serving as liaison between the City and minority organizations, women's organizations and community groups concerned with equal employment opportunity.

F. Keeping Administration officials and appropriate supervisory personnel informed of the latest developments in the field of equal employment opportunity as well as modifications in the City's EEO Policy and AAP.

G. Monitoring the implementation of the action programs outlined in the AAP and recommending needed modifications.

H. Conducting periodic visits to City installations to monitor compliance with appropriate sections of the AAP.

I. Conducting quarterly audits and preparing detailed annual reports.

Even though the affirmative action officer will be working with a staff of four (two professionals, one paraprofessional, and one clerical worker),[11] it is difficult to envision the responsibilites listed above being carried out in any kind of comprehensive manner with the staff that is currently devoted to this job. This difficulty will become evident below where the action programs called for in the plan are reviewed in greater detail.

Work Force and Applicant Flow Data

Currently, equal employment opportunity data for employees have not been computerized and no data are maintained to show the race, sex, or other pertinent data of those who apply for jobs with the city, according to the affirmative action plan. As a result, no comparisons can be made between the composition of city government employees and the pool of applicants from which selections are made. A new computerized personnel/payroll system is currently being developed that will facilitate EEO data processing.

According to the plan, the first phase of the new system, originally scheduled to be completed by June 30, 1977, will include the capability of providing EEO data required to audit implementation of the affirmative action plan and to complete the annual EEO–4 reports. The second phase, scheduled to be completed by June 30, 1978, will include computerization of applicant flow data as well as the capability to provide reports on success rates of minorities and women who take civil service examinations.

Within a month of release of the plan, however, the affirmative action officer said the target date for the first phase had already been pushed back to January 1, 1978, but she hoped that both phases would be completed by June 30, 1978.[12] The delay in completing the first phase, however, is one indication of the overall difficulties involved in implementing the plan at the current staff level.

Training

According to the affirmative action plan, few of the city's supervisory personnel and few people within the department of personnel have had formal training in personnel administration relating to equal opportunity and affirmative action. There is also no coordinated approach to inservice training for employees, thus restricting opportunities for upgrading skills and for upward mobility, particularly for minorities and women.

Such training, according to the plan, must be provided. Funds are being sought through the Intergovernmental Personnel Act to provide training for 200 supervisory personnel by May 31, 1977, according to the plan, and eventually for 800 supervisory personnel. Funds are also being sought to provide selected supervisors with more indepth training and to provide updated information on changes in EEO law. Sources of training will also be sought for the staff of the department of personnel in such areas as interviewing techniques, employee counseling, recruitment methods, and other aspects of personnel administration. A needs survey to provide supervisors with information on the kinds of training that would be useful for employees is also scheduled. According to the plan, staff of the department of personnel will be responsible for coordinating training activities.

The original target date for completion of training for 200 supervisory personnel was May 31, 1977. The needs survey was to be completed and a coordinated training program was to be

established by September 1, 1977. However, as of June 1977, the Intergovernmental Personnel Act grant had not come through and the affirmative action officer was not sure when the funds for training would be available. The needs survey also had not been started.[13]

Study of Job Titles and Job Descriptions

There are approximately 800 civil service job titles, many of which are obsolete and others which represent duplication of responsibilities, according to the plan. Many job descriptions have not been revised in 25 years and some no longer accurately define the requirements or responsibilities of the jobs. The affirmative action plan calls for a study of current job titles and descriptions leading to the elimination of these problems. To establish more career ladders, new job titles will also be created so employees, particularly minorities and women, are not restricted to dead-end, entry level jobs.

Other goals of this project are to eliminate sex-identifying job titles such as meter maid, fireman, and patrolman, and to develop job descriptions which indicate minimum qualifications for jobs and more accurately detail the tasks to be performed. The department of personnel will work in cooperation with all appointing authorities and the civil service commission. The target date for completion of the project is December 31, 1978.

Obviously, this is a large task. If the city is successful in meeting its target date, it would be a most commendable accomplishment. But the plan does not make clear who will be responsible or how much staff time will be devoted to this job. As of June 22, 1977, those who will analyze the job descriptions had not been identified and the work had not yet begun.[14]

Study of Benefits Programs

The affirmative action plan acknowledges that benefits programs, in general, are often administered in a discriminatory manner. It notes that insurance policies sometimes prescribe different coverages for men and women, and that policies regarding leave of absence for pregnancy, retirement plans, and religious holidays frequently result in discrimination in benefits programs.

No evaluation of Cleveland's benefits program has been made to determine whether or not it is discriminatory. The plan calls for a comprehensive study of the city's programs to determine if any illegal, disparate impact exists. Recommendations based on this study will be made to ensure to the fullest extent possible that the benefits programs is free from discriminatory impact and is consistent with recent court decisions in this area. The target date for completion of this study, which is to be conducted by the department of personnel with the cooperation of the U.S. Office of Management and Budget, was December 31, 1977.

Completion of a comprehensive study of the city's benefits program by the end of 1977 would be a notable accomplishment. But the objective should be the elimination of discrimination in benefits programs; the city should take whatever action is necessary to reach that objective. According to the affirmative action plan, the study will result in a series of recommendations. One question arises: To whom will the recommendations be made? The plan should state clearly who has responsibility for the benefits program and for all other aspects of personnel administration; it should state specific actions that will be taken to eliminate disparate impact in all areas; and it should specify the date by which those actions will have been taken.

Recruitment

The absence of a centrally administered recruitment program has resulted in a general lack of knowledge of job opportunities with the city among job seekers, including current employees who are unaware of promotional opportunities. According to the affirmative action plan, such a recruitment program is needed particularly to encourage more minorities and women to apply for city jobs. According to the affirmative action officer, the civil service commission does no recruiting except for the police and fire department; recent court orders have required the city to recruit for these two departments.

Because of the large volume of walk-in applications, the city has had no need to recruit to fill available jobs.[15] But the affirmative action plan calls for the creation of a recruitment program to be established by January 1, 1978. The plan would include the following components: wider distribution of civil service examination announcements, development of bilingual recruitment literature,

participation in career day programs in city schools, selective use of media for recruitment purposes, and use of training programs sponsored by the Cleveland Area Western Reserve Manpower Consortium for recruitment purposes.

Such steps would represent an improvement over the current situation in which virtually no recruiting is done. But the potential success of the plan would be enhanced if the city had a more comprehensive understanding of how specific recruitment practices have affected current employment patterns. One result would have been a more detailed action program. For example, one component of the recruitment program reads, "selective use of the media, as needed, for recruitment purposes." The plan does not specify which media are to be used. This would be determined after seeing which protected groups are underutilized in various occupations. Those vehicles which reach the particular group would then be selected.

The plan calls for wider distribution of announcements of civil service tests, but does not indicate where such announcements will be posted. The plan should state specific minority group and women's organizations that not only will receive such announcements, but will also receive all available job information and be utilized as recruitment centers for city jobs. Media and community organizations that serve specific groups can be useful in locating candidates for jobs. The city should identify these groups, list them in the plan, and begin developing working relationships with them. When a group has long been denied opportunities, special efforts must be initiated to reach that group to convince them that opportunities will in fact be available.

Interview Center

Unnecessary delays in appointing new employees are often caused by a breakdown in communication among candidates, the department of personnel, and appointing authorities within specific departments. Lack of coordination in the various interviewing procedures used by the city is also one factor that prevents interviewing techniques from being monitored.

According to the plan, April 1, 1978, is the target date for establishing an interviewing center in city hall to permit more coordination and monitoring of the interviewing process. That center will make it easier for candidates to interview for jobs and for the city to ensure that interviewers comply with equal employment opportunity guidelines.

The plan states that the affirmative action officer may sit in on any interview at any time and may discuss any problems related to equal employment opportunity with interviewers after candidates have left. This is an extremely haphazard approach to ensuring compliance. More systematic steps should be taken to ensure that interviewers will be familiar with equal opportunity guidelines (i.e., knowing what kinds of questions are permissible and what are not); those steps should be spelled out in the plan. As the U.S. Equal Employment Opportunity Commission (EEOC) has noted, questions regarding religion, education, arrest and conviction records, credit rating, marital or family status, and other areas often are not related to the tasks to be performed on the job and should not be asked during the course of an interview. While personal appearance (length of hair or style of dress) often affects one individual's opinion of another, interviewers must be instructed not to let such factors influence employment decisions if such considerations have been shown to have a disparate effect on minorities and women.[16] If the city of Cleveland wants to ensure that its interviewing procedures meet equal opportunity guidelines (and this is central to any affirmative action plan), then the city should indicate in much greater detail how such compliance will be achieved.

Skills Bank and Employee Counseling

Employers frequently do not utilize the full potential of employees because they are often unaware of all the skills possessed by these individuals. Recognizing this situation, the plan calls for the establishment of a skills bank and employee counseling program to be developed by the department of personnel by April 1, 1978. A skills inventory of all employees will be conducted, and information will be computerized so that supervisors can identify employees who may qualify for better jobs within city government. Counseling will be made available to employees seeking information about career ladders and other job opportunities with the city.

A complementary approach that would enhance the value of the skills inventory and employee

counseling would be, wherever feasible, to alter jobs themselves. In addition to soliciting the skills of various employees, or providing job training and counseling, jobs themselves can frequently be changed or expanded to involve new and greater responsibilities. For example, in some cases teams of employees could be formed to deal with a variety of tasks in such a way that all individuals would have greater participation in determining how a job will be done and in performing it. A rigid hierarchical structure in which selected individuals have most or all authority while others simply take orders and perform routine tasks often wastes the many talents of individuals in the group and lessens employee morale; a different kind of work organization often utilizes diverse skills, enhances morale, and increases efficiency. To the extent that people are plugged into a system containing a limited number of "desirable" jobs, the payoff of a skills inventory or employee counseling is limited. However, if jobs can be redesigned and more "desirable" positions can be created, the potential payoff in terms of utilizing all available skills within the work force is much greater.

Innovations aimed at improving the "quality of working life" have often resulted in reduced costs and more efficient delivery of service in both the public and private sectors. More than 2,500 labor-management productivity committees are now established in public and private sector organizations in which the skills and talents of workers are pooled to decide collectively how work will be carried out in the production of goods and the delivery of services. In other words, experiments originally designed to improve the working life of employees often lead to increased productivity as well.[17] The policy statement of the affirmative action plan calls for the city to "demonstrate creative leadership in the field of equal employment opportunity." This is one area where the city could clearly demonstrate creative leadership.

Survey of Physical Plant

Recognizing that many city office buildings may be inaccessible to handicapped workers, the affirmative action plan calls for the department of personnel, in cooperation with the department of public properties, to conduct a survey of all city buildings. Using a checklist similar to the one developed by the Ohio Governor's Committee on Employment of the Handicapped, the survey will determine what modifications are needed to make offices and other work sites more accessible to the handicapped. The target date for completion of the survey is September 1, 1977.

While it is to the city's credit that it formally recognizes problems faced by handicapped workers, this program lacks specificity to ensure that the ultimate goal—elimination of structural barriers which prevent handicapped workers from entering city offices—will be achieved. The plan also refers to a checklist developed by the Ohio Governor's committee, but it says nothing about bringing the city into compliance with the Rehabilitation Act of 1973, or the specific regulations issued by the U.S. Department of Health, Education, and Welfare which enforces section 504 of that act.[18] The city should take whatever action is necessary to ensure that it is in compliance with these Federal requirements, and these actions should be specified in the affirmative action plan.

EEO Grievance Procedure

A formal grievance procedure has been adopted which will enable employees to seek resolution of discrimination complaints internally without having to go to the U.S. Equal Employment Opportunity Commission or the Ohio Civil Rights Commission. While there are a number of steps involved in handling a complaint, basically the procedures call for the affirmative action officer to conduct an investigation and to consult with the director of personnel, the appropriate commissioner or supervisor, and other relevant supervisory personnel. The grievance procedure, however, does not indicate what kind of action may be taken against a supervisor found guilty of discrimination, what kind of relief could be granted a complainant, or what the timetable is for processing a complaint.

While implementation responsibility rests with the department of personnel (which again raises the possibility of conflicts of interest), the procedure fails to make clear exactly who has final decisionmaking authority. As in the case of other action programs designed to put the affirmative action plan into effect, the lack of specificity in the grievance procedure inhibits the potential effectiveness it may have.

Internal Audit and Reporting

The affirmative action plan calls for quarterly audits of the city work force, a detailed annual report and revision of the affirmative action program (taking into consideration changes in Federal and State laws, court decisions, and other EEO-related information), and submission of all reports required by enforcement agencies.

The plan states:

> Areas of major change due to new hires, transfers, promotions, layoffs, terminations, or other factors will be identified through these audits, and the information will be reviewed individually with Directors and Commissioners in light of the annual and long range goals.

These are commendable objectives, but this is the only point in the whole plan where long range goals are mentioned and, again, specific long range goals are not indicated.

Work Force Analysis and Goals for 1977

Volume II of Cleveland's affirmative action plan is a 700-page document detailing the distribution of city workers by race and sex within occupational groups and salary ranges for each of 69 departments, divisions, and bureaus. The goals for 1977 of each unit are also stated. The last page of volume II indicates the distribution of workers within occupational groups by race and sex for the city government work force as a whole. But no comparable breakdowns by income levels for the city as a whole are provided. Volume II contains much data, but as a work force analysis it is misleading, and as a statement of goals and timetables it is simply inadequate.

The work force analysis clearly documents the underutilization of women in city government, particularly at the higher level jobs. As indicated in table 3 of chapter 2, only 13.7 percent of city government workers are women compared to 40.2 percent for the Cleveland labor market. Within professional and official occupational groups, women account for less than one-half the proportion of workers in city government than they account for in the labor market. Table 3 also suggests that blacks are fairly well represented in city government, including the higher level jobs. Table 3 shows, for example, that blacks account for 26.5 percent of all officials in city government compared to 21.3 percent for the total Cleveland labor force. But a closer examination reveals that blacks within this occupational group are heavily concentrated at the lowest salary ranges. Among officials in the $8,000 to $9,999 range, blacks account for 74 percent, but among those earning $25,000 or more, blacks account for just 9 percent.[19] As indicated in chapter 2, a similar pattern holds for professional employees as well.

A major deficiency in Cleveland's affirmative action plan is the treatment of goals and timetables. First, all goals are 1-year goals. Since the plan is to be revised each year, goals are stated only in reference to projected hiring for the coming year. There is no reference anywhere in the plan to specific, long term goals. While the plan does indicate that the city is pursuing equal employment opportunity for all, there is no policy statement indicating, even in the long run, that the ultimate objective is to have a city government work force that generally reflects the makeup of the Cleveland labor market. The affirmative action officer said intermediate goals for a 2- or 3-year period may be developed in the next few years, but there are no plans to develop long terms goals.[20]

Second, all goals are stated on a unit-by-unit basis, and no comprehensive goals for the city as a whole are given. The plan includes a brief description of the projected hiring needs and numerical goals for the next 1-year period of each department, division, and bureau, many of which anticipate no hiring at all.

Commission staff aggregated the total number of new hires projected for the coming year and the total number projected to be minorities or women for the city as a whole and for each occupational group. The analysis found that the goals called for hiring minorities and women at a lower rate than they are currently employed by the city.[21] Within those units for which a specific number of new hires or replacements were projected, a total of 351 hires are anticipated for the coming year. Among the 351, 15.7 percent will be black and 11.4 percent will be women, according to the goals. These figures compare to a current city government work force which is 34.6 percent black and 13.7 percent female (as indicated in table 3). Although the goals call for some improvement, particularly for women among the

higher level jobs (see table 4), in general, the 1977 goals, if achieved, will serve to exacerbate rather than ameliorate existing underutilization of protected groups.

It is important to evaluate employment practices and to establish goals within specific units. But it is equally imperative to examine the total work force, and within that structure to identify problem areas and take necessary corrective action. Two reasons why the city had failed to develop a plan that provides for the necessary corrective action are its failure to analyze the total work force in terms of the salary and occupation of minority and women workers, and its failure to establish goals on a citywide basis.

The problems of 1-year only goals and of unit-by unit goals are closely related. If goals were projected for a longer time span, then fewer units would report that they anticipated no hiring for the period covered. Thirty-six (48 percent) of the departments, divisons, and bureau reported that they anticipate no new hires for the coming year. The more new hirings anticipated, the more opportunities there would be to implement an equal employment opportunity program. Although it may be difficult to predict accurately how many jobs will open up over several years, reasonable estimates can be made based on analysis of turnovers during previous years and of areas where the city anticipates expansion or cutbacks. The accuracy of these estimates would be enhanced if the needs of specific units and the city as a whole were viewed in conjunction with each other.

A third problem with the goals established in volume II is that no specific numerical goals were established for the police or fire departments, despite court orders requiring the city to do so. While the plan cites the specific court orders and the requirements handed down by the judges regarding police and fire department hirings, the plan does not state explicitly the hiring intentions of these two departments, or that they even intend to comply with court orders.

Further deficiencies exist among some of those units which projected specific goals. For example, the division of streets (with 510 employees) has a normal attrition rate of 7 to 8 percent, according to the affirmative action plan. It is anticipated that replacements will be hired and that one electrician and two typists will be added. The division's goals, however, refer only to the two typist positions to be added. No goals are indicated for the 35 to 41 people (7 to 8 percent of 510) who will be hired in the coming year.[22] The division of waste collection and disposal anticipates adding four clerical workers. Its goal is to hire four women for these positions. To state this kind of goal does little to alter the sex stereotyping of jobs or to upgrade the status of women in city government.

Goals and timetables constitute the heart of an affirmative action plan. According to Revised Order No. 4:

> An acceptable affirmative action program must include an analysis of areas which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus to increase materially the utilization of minorities and women, at all levels and in all segments of his work force where deficiencies exist.[23]

By establishing short term goals that increase underutilization of minorities and women and by failing to project long term goals to eliminate such patterns, the city of Cleveland has produced a plan which does not meet Federal requirements and which can hardly be called an affirmative action plan.

Affirmative Action in Cleveland—A Question of Good Faith

Cleveland's affirmative action plan addresses several aspects of personnel administration which are crucial to an effective plan. But it fails to identify the specific problem areas which deny equal employment opportunity in government. As a result, it does not delineate specific policies and programs to resolve those problems. Most notable is the failure to specify long term goals. In addition, many of the general points which are addressed are treated inadequately.

Many of the action programs (as described in the plan) do not indicate specifically what action will take place or who will be responsible for the work. There are also serious questions about the proposed implementation mechanism which, when viewed in conjunction with the shortcomings in the plan's content, raises further questions as to

TABLE 4

City of Cleveland, 1977 Goals (from Cleveland's Affirmative Action Plan)

	Total	Prof., Tech., Off., and Admin.	Clerical	Craft	Service	Para. Prof.	Protective Service
Projected New Hires	351	97	66	55	102	17	14
Females	40(11.4%)	29(29.9%)	4(6.1%)	2(3.6%)	0	4(23.5%)	1(7.1%)
Blacks	55(15.7%)	28(28.9%)	9(13.6%)	7(12.7%)	9(8.8%)	1(5.9%)	1(7.1%)

whether or not the city is facing the issue of equal employment opportunity in good faith.

The city has already missed two target dates. The Intergovernmental Personnel Act grant has not come through and the training of 200 supervisory personnel to be completed by May 31, 1977, has not begun. The first phase of the work force and applicant flow data processing (originally scheduled to be completed by June 30, 1977) has also not been completed. Given the work program described in the plan as it is currently written, it appears inconceivable that a staff of four people, even with the support other departments are supposed to provide, could comprehensively carry out duties assigned to the affirmative action officer and her three assistants.

An additional barrier to effective implementation of an affirmative action plan is the conflict within the leadership of city government. Mayor Perk has formally endorsed the plan but George Forbes, president of the Cleveland City Council, and chairman of the finance and rules committees, is strongly opposed to the plan. Forbes claimed that he would not allocate one penny towards its implementation. His primary concern with the plan is that, in his opinion, it favored white women over racial minorities.[24] The issue here is not the merits of Forbes' comments, but rather that the leadership of the city is not unified behind a plan to implement an affirmative action plan effectively to achieve equal employment opportunity.

The city of Cleveland has a long history of discrimination against minorities and women in its employment practices. Given the propitious timing of the plan, the deficiencies in its contents, the limited resources devoted to implementation, and the lack of unified support from the city's leadership, one might well ask if the city is acting in good faith to eliminate employment discrimination.

Cleveland as Model for the Community

In the preface of the plan, the city states:

> This plan outlines definite programs which will not only allow the City of Cleveland to live up to today's standards of equal employment opportunity but will set an important example for employers throughout the community.

An effective affirmative action plan would certainly set a favorable model for employers throughout the Cleveland metropolitan area. As indicated in the previous pages, however, the city has yet to develop such a plan. But the city can exercise greater influence on the private sector through an effective contract compliance program. As the following chapter indicates, however, the contract compliance program of the city of Cleveland also contains many problems which restrict the potential influence it could have on employers throughout the community.

Notes to Chapter 4

1. *Plain Dealer*, May 17, 1977 p. 12-A.

2. Tom Campbell, telephone interview, May 24, 1977.

3. Helen Williams, telephone interview, May 25, 1977.

4. Lewis F. Nicolini, Associate Regional Administrator, Employment and Training Administration, U.S. Department of Labor, letter to Dr. Vladimir J. Rus, director, Cleveland Western Reserve Manpower Consortium, Apr. 6, 1977. Bernadine Denning, Director, Office of Revenue Sharing, letter to Ralph Perk, mayor, city of Cleveland, May 1977.

5. *Cleveland Press*, May 18, 1977.

6. Richard Dell, Environmental Protection Agency, telephone interview, June 27, 1977. George Dixon, Equal Employment Opportunity Commission, memorandum to Elmer McLain, Equal Employment Opportunity Commission, June 21, 1977 (hereafter cited as Dixon memo.)

7. *City of Cleveland Equal Employment Opportunity Program: Office of Contract Compliance*, (1974), p. 8.

8. Cleveland Women Working, "An Evaluation of the City of Cleveland's Affirmative Action Plan" (July 1977), appendix I.

9. City of Cleveland Payroll Records, July 8, 1977.

10. City of Cleveland, "Position Titles and Payrates" (January 1977).

11. Mary Springman, affirmative action officer, city of Cleveland, staff interview, Cleveland, Ohio, June 22, 1977 (hereafter cited as Springman interview).

12. Ibid.

13. Ibid.

14. Ibid.

15. Ibid.

16. U.S., Equal Employment Opportunity Commission, *Affirmative Action and Equal Employment: A Guide for Employers* (1974), vol. I, p. 40-44.

17. "Cities Seek Productivity Gains Despite Job Loss, Budget Squeeze," *World of Work Report*, July 1977, pp. 76-77.

18. 42 Fed. Reg. 22676 (May 4, 1977).

19. Dixon memo.

20. Springman interview.

21. Hispanics, Asian Americans, and American Indians, who account for less than 0.7 percent of current employees, were not included in this analysis.

22. Eight women, 1.6 percent of the total, are employed in the division of streets; all are in clerical positions. While 74.1 percent of all employees in this division are black, only 35 percent of official, administrative, professional, or technical workers are black compared to 88 percent of all service and maintenance workers.

23. 41 C.F.R. §60–2.10.

24. George Forbes, staff interview, Cleveland, Ohio, June 22, 1977.

Chapter 5

Cleveland's Contract Compliance Program

In 1969 the city of Cleveland established a contract compliance program to "provide for equality of employment opportunity by every company doing business with the city," in the words of Mayor Perk.[1] An office of contract compliance was created as part of the city's community relations board. The position of contract compliance officer was created to administer the program. Like the affirmative action plan, the contract compliance program embodies some of the key elements for an effective program, but there are significant deficiencies.

The Office of Contract Compliance

The office of contract compliance consists of a contract compliance officer and four field staff. The office reviews bids submitted by those wishing to do business with the city and monitors employment practices of the city contractors to assure that all contractors are in compliance with city equal employment opportunity requirements. The contract compliance officer is responsible for determining whether or not a contractor is in compliance and then makes the appropriate recommendations to the mayor or the director of the department involved in the contract. Final decision-making authority rests with the board of controls, a committee consisting of the mayor and the directors of the major city departments.

All city contracts must contain an equal employment opportunity clause in which contractors state that they do not discriminate against employees on the basis of race, religion, color, sex, or national origin, and that the contractor will make available to the contract compliance officer any records necessary to monitor compliance. All bids must be accompanied by a "Bidder Employment Practices Report," which provides a variety of information about the employers' policies and practices regarding equal employment opportunity, including a breakdown of employees within each occupational category by race and sex. The apparent successful bidder is also required to attend a pre-award conference to provide additional information if requested by the contract compliance officer. (Requirements similar to those described in this chapter also apply to subcontractors.)

Contractors are required:

> ...to take whatever affirmative actions are necessary to assure equal employment opportunity in all phases of employment, regardless of race, religion, color, sex, or national origin....To do this, the contractor must have a program of affirmative action tailored to the particular set of circumstances within which the contractor's company operates.[2]

The city suggests some ingredients for an affirmative action plan, such as writing an equal opportunity policy, appointing a top management official as equal opportunity officer (which the city did not do in its own affirmative action plan), instructing staff to hire and promote on a nondiscriminatory basis, making contacts with minority organizations and recruiting in areas with large minority populations, and providing job training and counseling so minorities and women can take advantage of promotional opportunities.

For construction contracts worth $10,000 or more, project site reports must be provided within 90 days from the beginning of work and at each 90-day interval. Such reports must include information about employment practices including statistical data on the race and sex of workers, and any other information the contract compliance officer prescribes.

If a contractor is found to be in noncompliance, the contract compliance officer negotiates with the contractor a mutually acceptable plan of action to bring that contractor into compliance. In those cases where a contractor has been found to be in noncompliance, and "after affording such contractor or subcontractor a reasonable time to correct his situation and where negotiations have been of no avail,"[3] a number of sanctions can be imposed. After the contract compliance officer makes a recommendation to the mayor or the director of the department involved, the city may:

- withhold future payments until compliance is secured;
- prohibit that contractor from bidding on future contracts until compliance is secured;
- cancel the current contract; or
- take other appropriate proceedings to enforce the law.

The city can also provide all relevant data to appropriate State and Federal agencies.

There are at least two problems with the program, however, which can nullify any benefits that might otherwise occur. First, contractors are not required to establish specific goals or timetables in their affirmative action programs. According to the contract compliance officer, he generally looks for at least one-third of the work force to be minority, given the large minority population in the Cleveland area.[4] But no similar informal guideline was mentioned regarding the employment of women. Second, the "reasonable time" that is permitted for negotiations between the city and contractors before sanctions are imposed is not specified. If a specific length of time were established, unnecessary delays in bringing contractors into compliance could be reduced. According to Elijah Wheeler, contract compliance officer, no contractors have had contracts terminated or funds temporarily withheld because of violations of city equal employment opportunity requirements.[5]

Employment Patterns of City Contractors

The office of contract compliance provided a variety of information about its program to Commission staff. Among the materials provided for the year of 1976 were the names and addresses of all companies receiving contracts of $10,000 or more from the city of Cleveland, the Bidder Employment Practices reports of all companies receiving contracts worth $50,000 or more, and the Bidder Employment Practices reports of all companies denied city contracts because of violations of city equal employment opportunity requirements.

Where Cleveland's Money Goes

In 1976 Cleveland let 265 contracts worth $10,000 or more each. The total value of these contracts came to over $50 million. More than 170,000 people were employed by the contracting companies. Of the 265 contracts which were let, 180 went to companies located in the city of Cleveland, 52 went to companies located elsewhere in Ohio (primarily in the Cleveland SMSA), and 33 went to firms located outside the State. The value of contracts going to city firms was more than $35 million, while $8.5 million went to other Ohio companies and $6 million went to those outside of Ohio. The Cleveland firms receiving contracts employed approximately 22,000 people. Other Ohio recipients of city contracts employed almost 15,000, while the out-of-State firms employed just under 140,000 people.

Distribution of Minorities and Women within Companies Seeking City Contracts

Eighty contractors each received contracts worth $50,000 or more in 1976. Thirty-five of those contractors were located in the city of Cleveland. Contract compliance officer Elijah Wheeler, in noting that he generally looks for minorities to account for approximately one-third of all bidders' work forces in order for bidders to be eligible for city contracts, based that guideline on the large minority population in Cleveland.

The following analysis will focus on contractors within the city of Cleveland. Those with fewer than 25 employers were also excluded. The information is taken from the Bidder Employment Practices reports of 26 contractors in the city of Cleveland, each of whom received contracts worth $50,000 or more and who employed 25 or more people.

If the city looks for one-third of its contractors' work forces to be minority as an informal guideline in monitoring compliance, then that guideline is very loosely enforced. Among the 26 Cleveland contractors receiving contracts worth $50,000 or more and employing 25 people or more, 17 (65 percent) have a work force in which the minority representation is less than one-third. The representation of minority workers is lower in the higher paying positions. In 24 of these companies, minorities account for less than 25 percent of all professional, technical, and administrative (officials and managers) workers. In 13 (50 percent) of these firms, there was not one minority in a professional, technical, or administrative posi-

tion. Considering the fact that blacks account for more than 35 percent of the Cleveland labor market and approximately 25 percent of all professional, technical, and administrative workers, it is evident that minorities are seriously underutilized in those companies doing business with the city of Cleveland.

The job situation for women is even bleaker among city contractors. In 23 (88 percent) of these 26 contractors, women account for less than 23 percent of the total work force. Among professional, technical, and administrative workers, women are less than 25 percent of the total in 25 (96 percent) of these firms, and less than 16 percent in 24 of them. Eleven (42 percent) of these contractors employed no women in these occupations. Women are over 40 percent of the total Cleveland labor market and approximately 40 percent of professional, technical, and administrative workers.

The 26 contractors employ 6,904 workers. Minorities account for 29 percent and women account for 11 percent of the total. Among the 1,491 professional, technical, and administrative workers employed by these firms, 11 percent are minority and 9 percent are women. In 1976 the city rejected bids offered by 12 contractors because of noncompliance with city equal employment opportunity requirements. Two of these firms employed more than 25 workers and were located in the city of Cleveland. In some respects, their employment patterns were better than those of approved contractors. Among the two which were rejected, women accounted for 23 percent of all employees. However, minorities accounted for 3 percent of all employees in these two firms and, in both cases, there were no minorities or women employed in professional, technical, or administrative positions.

If these employment patterns reflected an improvement over previous years, then it would be reasonable to conclude that progress was being made and that employment opportunities for minorities and women would continue to open up in the future. But that does not appear to be the case. In the Bidder Employment Practices reports, contractors are asked to indicate the race and sex composition of their work forces for a previous reporting period. (No specific time period is stated.) Among the 17 contractors who reported a minority work force of less than 33 percent, 8 indicated what the minority utilization was in a previous report. In six of those eight cases, the current minority utilization was lower than that which was previously reported. Among the 23 contractors who reported a female work force of less than 23 percent, 7 indicated what their female utilization rate was in a previous report. In six of those seven cases, the current female utilization was lower than that which was reported previously.

Contract Compliance: Promise and Performance

An effective contract compliance program could substantially improve employment opportunities for minorities and women in the Cleveland area. But such a program has not yet been established within Cleveland's city government. There are a number of factors which limit the effectiveness of the existing program. First, more than 10 percent of the dollars which go to city contractors go to firms that are located outside the Cleveland metropolitan area. Second, no results-oriented goals and timetables are required of city contractors. Third, existing requirements appear to be loosely enforced.

Minorities and women are underutilized among city contractors located in Cleveland, and it appears the situation is getting worse. The city of Cleveland is currently doing business with local firms whose employment patterns of minorities and women are among the worst in the city. There are exceptions, but in general it does not appear that firms wanting to do business with the city must be overly concerned with their own employment practices. Clearly, the office of contract compliance in Cleveland does not appear to be a force that substantially influences the employment opportunities of minorities and women in the city.

Notes to Chapter 5

1. *City of Cleveland Equal Employment Opportunity Program: Office of Contract Compliance*, (1974), p. 1.

2. Ibid., p. 3.

3. Ibid., p. 7.

4. Elijah Wheeler, contract compliance officer, staff interview, Cleveland, Ohio, June 22, 1977.

5. Elijah Wheeler, letter to Valeska S. Hinton, Commission staff, Aug. 16, 1977.

Chapter 6

Employment Discrimination in Cleveland: The Federal Government's Role

The assistance and, where necessary, enforcement efforts of the Federal Government can play an important role in eliminating employment discrimination in any major metropolitan area. The city of Cleveland submitted its affirmative action plan for review to 12 Federal agencies[1] which provided the city with more than $78 million in 1977.[2] These funds met, among other things, the payroll for approximately half the city's workers.[3]

Each agency requires recipients to meet certain nondiscrimination requirements not only in the administration of the program being funded but also in specific aspects of their employment practices. One problem most major cities face in meeting Federal requirements is the myriad rules and regulations established by various agencies. Those requirements range from a set of general principles to detailed regulations. Another problem is that agencies vary widely in the extent to which they monitor recipients and enforce their own regulations. In some cases virtually no oversight is practiced. As the U.S. Commission on Civil Rights stated in its 1975 evaluation of the Federal Government's civil rights enforcement effort in the area of employment:

> The diffusion of authority for enforcing Federal equal employment mandates among diverse agencies is one of the paramount reasons for the overall failure of the government to mount a coherent attack on employment discrimination. Agencies have different policies and standards for compliance. They disagree...on such key issues as the definition of employment discrimination, testing, the use of goals and timetables, fringe benefits, and back pay....This fragmented administrative picture has resulted in duplication of effort, inconsistent findings, and a loss of public faith in the objectivity and efficiency of the program.[4]

The inadequacies of Cleveland's affirmative action plan were noted in chapter 4. Below is an evaluation of the compliance activities of those 12 Federal agencies which were asked to review the plan. This examination will focus on the adequacies of these agencies' requirements and of their enforcement efforts in Cleveland. Some of the agencies have not had time to complete their assessment of Cleveland's plan. However, this review uncovered further evidence of the problems the Commission noted in its analysis of the Federal Government's civil rights enforcement efforts.

Department of Labor

The Comprehensive Employment and Training Act (CETA) is administered by the U.S. Department of Labor (DOL). That agency has established specific civil rights regulations with which recipients are supposed to comply. In the case of Cleveland, however, it appears that Labor's enforcement activities have not resulted in full compliance with its own regulations.

On March 10, 1977, James LaVanchy, Assistant Area Manager for the U.S. Civil Service Commission in Dayton, Ohio, wrote Lewis Nicolini, DOL's Associate Regional Administrator for the Employment and Training Administration (ETA) in Chicago, regarding the Cleveland-Western Reserve Manpower Consortium. The city of Cleveland operates its more than $27 million CETA program through this consortium and is its major prime sponsor. LaVanchy stated that the consortium failed to meet civil service personnel requirements because it failed to submit an equal employment opportunity plan and failed to submit separation policies and classification standards.[5]

As additional background on the question of Cleveland's compliance with Federal civil rights regulations, Richard Kaufman, DOL's Federal representative for Cleveland, indicated that Cleveland would not have been able to get renewal of its Title I and Title II CETA monies without submitting an affirmative action plan by late spring 1977.[6] Kaufman said that Cleveland was well aware of this situation and of the fact that the city would be out of compliance with DOL regulations if it did not develop an affirmative action plan by the August 15, 1977, compliance review. In other words, there was Federal pressure on the city of Cleveland to develop an affirmative action plan.

On June 10, 1977, LaVanchy again wrote Nicolini, indicating that he and Kaufman had met on May 21, 1977, with members of the consortium and Cleveland officials to review the affirmative action plan just completed by the city. LaVanchy's conclusion was that:

> [I]t fulfills the requirements for an AAP and contains an action item which addresses the deficiency noted in the classification standards....In our opinion the Cleveland-Western Reserve Manpower Consortium is now in substantial conformity with minimum personnel requirements approved by Chicago Region ETA.

Nicolini, in turn, wrote the director of the consortium on June 14, 1977, that "the Cleveland Area Western Reserve Manpower Consortium is in substantial conformity with minimum personnel requirements as specified in CETA Regulation Section 98.14." LaVanchy's letter noted that "we will be closely watching the progress achieved in implementing the AAP as evidence of good faith in correcting noted deficiencies."[7]

In addition to general CETA regulations, each DOL regional office is responsible for drafting its own "EEO Effective Mechanism" for ensuring equal employment opportunity in CETA programs. Region V staff, which monitors Cleveland's performance, developed its "effective mechanism" in the Employment and Training Administration CETA Letter No. 77–47, which was sent to all CETA prime sponsors on April 28, 1977.[8] The letter established the minimum principal elements of an affirmative action plan for CETA prime sponsors. Attached to the letter was a review guide or checklist of items for use in evaluating plans of prime sponsors.

Many of the requirements included in the checklist have not been met in Cleveland's plan. For example, one of the items says an affirmative action plan must "state the establishment of a positive goal oriented program to achieve...objectives with specific targets and timetables."[9] Cleveland's plan does not identify specific areas of underutilization or problem areas within its overall personnel administration or programs to eliminate those deficiencies (see chapter 4).

Another item in the checklist is the following:

> Does [the affirmative action officer] have full responsibility and authority to implement the policy statement and the resulting affirmative action plan.[10]

In Cleveland the mayor has ultimate responsiblity for implementation of the equal employment opportunity program and the affirmative action plan. He has delegated this task to the director of personnel, while the affirmative action officer is responsible for carrying out the work on a daily basis. As indicated in chapter 4, the affirmative action officer in Cleveland is not a top level official or administrator. Clearly that person does not have the responsibility or authority that DOL requires in its regulations.[11]

Cleveland's affirmative action plan apparently does not meet even the minimal requirements of DOL for CETA recipients. The Labor Department has not yet formally reviewed and approved or disapproved Cleveland's affirmative action plan or the city's response to CETA Letter 77–47. DOL indicated in its October 3, 1977, letter that such action would not take place before November 1977.

Environmental Protection Agency

This Federal agency normally reviews affirmative action plans only when grant applications are being considered, according to Richard Dell and Roland L. Cornelius with the agency's Office of Civil Rights and Urban Affairs in Chicago. Ongoing construction projects of EPA grantees are evaluated for contract compliance only, using guidelines in the construction contracts manual of the Office of Federal Contract Compliance Programs and EPA guidelines. Onsite contract compliance reviews are done every 3 or 4 months on EPA-funded construction contracts. They include monitoring the total work force of the contractor in question.[12]

EPA does not fund construction through the "city of Cleveland," but awards construction grants through the Cleveland Regional Sewer District. Therefore, according to Dell, the agency has no "leverage" with the city on the affirmative action issue, although it could offer constructive criticism and make suggestions to the city. EPA, however, "plans nothing in writing back to the city" on the affirmative action plan. Dell did offer that the Cleveland plan was "probably one of the

most comprehensive" he had seen to date. His only reservation about the plan was the possible "conflict between the personnel department and the affirmative action officer," but, he said, "only time will tell" whether or not these conflicts actually materialize.

It appears that EPA is taking a very narrowly defined view of its role in facilitating equal opportunity and adherence to civil rights principles. The city of Cleveland has voluntarily sought assistance from Federal agencies with the expertise and responsibility of promoting equal opportunity, and because this offer normally is not made, the Environmental Protection Agency declines to accept. This is not the kind of response that furthers Federal efforts to ensure equal employment opportunity, and ultimately it is not in the best interests of the Environmental Protection Agency.

Economic Development Administration, U.S. Department of Commerce

This agency has begun to review the Cleveland affirmative action plan. Edwin Finney, equal opportunity specialist in EDA's Civil Rights Division in Chicago offered some general comments on the plan. Finney said that the plan set forth good intentions but was "not a realistic plan." According to Finney, the plan calls for a number of substantial tasks to be performed by the personnel department within a specified period. He cited the city's objective of conducting a review and redefinition of all job descriptions as one example of a "huge job" that will not likely be accomplished given the resources devoted to this task in the plan. EDA intends to send a written response to Cleveland's request for a critique of its plan, but it had not done so at the time this report was written.[13]

Warren Plath, Chief of EDA's Civil Rights Division in Chicago, in conjunction with Finney, described their agency's civil rights requirements for grantees.[14] Several of these requirements are not met in Cleveland's plan. For example, these regulations require business entities who are substantial or direct beneficiaries of EDA public works projects to develop affirmative action programs using as guidelines the criteria established in 41 C.F.R. 60–2.10 through 60–2.31.

The guidelines define the ingredients of an affirmative action plan, including an analysis of personnel practices and deficient areas, and a goals-timetable schedule projected to satisfy equal opportunity compliance requirements, accompanied by specific projected dates for accomplishments of goals. The guidelines contain "ingredients," therefore, which are not included in the Cleveland plan.

In the case of EDA-assisted water and sewer facilities, applicants must execute an "Assurance of Compliance with Department of Commerce Regulations under Title VI of the Civil Rights Act of 1964." This assurance generally requires nondiscrimination with respect to the population being served by the project. Cleveland currently has no EDA-funded water or sewer project.

Plath and Finney noted that there were a number of practical problems associated with monitoring for civil rights compliance, although semiannual checks would be made of a grantee the size of the city of Cleveland. EDA generally evaluates individual projects according to OFCCP guidelines. It also looks for any complaints which may have been filed with the U.S. Equal Employment Opportunity Commission. Finney noted that round II of the current Public Works funding requires 10 percent minority participation on projects. Unfortunately, EDA does not generally build civil rights requirements into their funding agreements, and it is therefore "difficult to get leverage" on the applicant. Finney believes this is a shortcoming of EDA's civil rights enforcement effort.

Office of Revenue Sharing

As indicated in chapter 3, the Office of Revenue Sharing (ORS) found in May 1977 that the city of Cleveland was engaging in several discriminatory employment policies and practices against minorities and women.[15] ORS sought seven specific corrective actions and city officials were given 60 days to respond to indicate their "intentions and efforts to correct the violations cited." Mayor Perk's June 29, 1977, response, purporting to address ORS's charges, was basically a summary of portions of the city's affirmative action plan.[16]

The mayor cited the city's intended compliance with court orders stemming from cases involving employment practices in the police and fire departments as the city's response to charges of severe underutilization of minorities and women in those two departments. Yet while the Shield Club

case resulted in a court-imposed hiring plan involving specific numerical requirements for hiring minorities in the police department, the city's affirmative action plan contains no numerical goal for that department. Perk claimed that the centralized recruiting program described in the affirmative action plan would remedy the underutilization of women throughout the city's work force. However, there is nothing in that plan which attempts to deal with the underutilization of women specifically.

Mayor Perk cited the Shield Club litigation in response to charges regarding preemployment inquiries for the police department, and pointed to the proposed study of job titles and descriptions in response to the ORS charge that many jobs have sex restrictive titles. Perk denied that the logo, "Our men serve all men," coupled with the lack of an aggressive recruitment program for women, had a chilling effect on female job applicants.

None of the seven actions requested by ORS was specifically addressed in the mayor's response. In sum, Cleveland's response to ORS, like the affirmative action plan itself, called for further study of problems rather than for action programs to meet specific goals by particular points in time.

The city was, in fact, nonresponsive to the issues raised in ORS's May letter. Apparently, ORS agrees. In its August 5 letter rejecting Cleveland's response, ORS informed Perk that:

(1) the affirmative action plan fails to provide specific methods by which minorities and women will be recruited;

(2) the plan provides no goals or timetables for achieving parity (in terms of the employment of minorities and women) between the city government work force and the Cleveland labor market;

(3) the training of supervisors and the development of a skills bank do not indicate how the upward mobility of minorities and women will be facilitated; and

(4) no program is provided for recruiting women for the police department.

The city was ordered to comply with the requirements specified in the May letter within 30 days. ORS advised that, "Failure to comply will result in the initiation of an administrative proceeding directed toward the withholding of the further payment of entitlement funds to the city of Cleveland.[17]

Law Enforcement Assistance Administration

The civil rights enforcement efforts of the Law Enforcement Assistance Administration with respect to funding in Cleveland have been complicated by the Shield Club litigation. The same charges of race discrimination in the Cleveland police department, a major LEAA beneficiary, were brought to LEAA in the form of an administrative complaint at the time the Shield Club litigation was initiated. A compliance review was done in LEAA's name pursuant to a memorandum of understanding with the Civil Rights Division of the Justice Department. No full scale investigation was made by LEAA, however, because the agency determined that the issues would be fully argued and disposed of in court in the Shield Club case, which had by then been filed. Pursuant to the 1976 LEAA amendments, LEAA withheld funds when the court in the Shield Club case found that the Cleveland police department had engaged in a pattern or practice of discrimination.

LEAA's amendments require that a notice of noncompliance be sent to a recipient when such a finding is made. This notice resulted in the suspension of funds by LEAA. After a 3-month suspension, funds were restored until at least October 1977. LEAA will evaluate the progress made by the police department in following the court's order in October and will, at that time, along with the court, determine whether funds should be permanently restored or again withheld.[18]

The situation has been further complicated by a second administrative complaint, filed with both LEAA and the Office of Revenue Sharing, charging that the city's failure to hire needed (and authorized) police personnel is subverting the court's mandated hiring plan and is another form of racial discrimination. Although this issue, too, will be addressed by the court, it is likely that in this case LEAA will make some independent assessment of the complaint.[19]

Since February 1977 LEAA has been operating under revised regulations governing nondiscrimination in federally-assisted crime control and juvenile delinquency programs.[20] A substantial portion of LEAA funds are given in the form of "block grants" channeled through State Planning Agencies (SPAs). LEAA accepted the assurances given by the SPA that an ultimate beneficiary of LEAA

funds would be in compliance. Then, too, nondiscrimination efforts were mainly directed at the service population of LEAA funds rather than at the employment patterns of grantees.

The revised regulations now specifically apply to both private and public recipients of LEAA funds and to employment issues as well as delivery of services. The regulations also make clear that the LEAA standards of employment discrimination are the same as those used by the Civil Rights Division of the Department of Justice, and, furthermore, that it is the employer's burden to validate its selection procedures once LEAA has demonstrated that those procedures disproportionately exclude a minority class. Discriminatory purpose on the part of the employer need not be shown.

Specific, clear, and consistent regulations are an important first step toward effective civil rights enforcement efforts. They are, however, virtually meaningless without a vigorous monitoring and compliance mechanism. For example, LEAA regulations now require each recipient of a grant or subgrant of $250,000 or more to provide LEAA with a copy of its current affirmative action program.[21] LEAA must "maintain a file of these plans, which shall be available for inspection." LEAA is supposed to do compliance reviews of those recipients which "appear to have the most serious equal employment opportunity problems...." Yet LEAA's Office for Civil Rights is not aware of receiving the Cleveland affirmative action plan, and has not even cursorily reviewed it to see how serious the employment problems are in the city. Senior attorney/advisory Winifred Dunton of LEAA's Office of Civil Rights Compliance, cited the huge backlog of complaints which must be disposed of (by regulation) within a short period as the reasons for this inattention. "We get a lot of paper here and most of it is just filed...you can bet our investigators are not looking at affirmative action plans with the backlog of complaints we have."[22] The backlog is only a temporary situation, according to Ms. Dunton, and "it is expected that self-initiated activities will soon increase."[23]

More attention directed at monitoring and compliance efforts will result in fewer complaints. LEAA has the authority and the responsibility to assure that municipal beneficiaries of LEAA funds are nondiscriminatory employers. Thus far it has failed to exercise that authority in the case of Cleveland.

Urban Mass Transit Administration (Department of Transporation)

According to Cleveland's affirmative action officer, the Cleveland plan was sent to Irving Bromall, an equal employment opportunity specialist in the Office of Civil Rights of the Urban Mass Transit Administration for his review and comments. He does not recall ever receiving the plan. There is no interest in reviewing it if it is received, according to Juan Paredes, another equal employment opportunity specialist in that office. Paredes commented that the Urban Mass Transit Administration was only concerned with reviewing the affirmative action plan of the Cleveland Regional Transit Authority. If the city of Cleveland did send it their plan, Paredes said, "We probably would say 'thank you' and file it away." Paredes did indicate that the plan for the Cleveland transit authority had been submitted and was approved.[24] (The Cleveland Regional Transit Authority plan was not reviewed as part of this report.)

National Highway Traffic and Safety Administration—Ohio Department of Highways

The Ohio Department of Transportation is responsible for assuring the Federal National Highway Traffic and Safety Administration, and ultimately the U.S. Department of Transportation, that Federal highway monies spent in the State are not used in a discriminatory manner. The Department of Transportation accepts the compliance assurances of State transportation departments unless specific complaints are filed.

According to Harry Mohr, assistant equal opportunity officer for the Ohio Department of Transportation, the Cleveland affirmative action plan would not be of direct concern to the State department. No highway monies are given specifically to the city of Cleveland. The State department does, however, monitor highway construction work throughout the State and utilizes the OFCCP guidelines in that effort. Nevertheless, Mr. Mohr indicated he would be happy to review the Cleveland plan and to offer his comments on it. Mohr said, however, that his office has never seen a copy of the plan.[25]

Federal Aviation Administration (Department of Transportation)

The FAA, like several other Federal agencies reviewed in this chapter, regards its equal employment jurisdiction as extending only to the ultimate beneficiary of its funding; for Cleveland that beneficiary is the department of port control which governs Cleveland's two airports. FAA was sent the entire Cleveland affirmative action plan in June 1977 with an invitation to comment on its merit. FAA only reviewed the section on the port control.[26]

FAA had actually been monitoring the port control closely even before the affirmative action plan was developed. As a result of an April 1977 compliance review, FAA issued a finding of noncompliance with Title VI and with the requirements of Executive Order No. 11246.[27] Several issues were involved. The employment questions centered around the deficiency in the number of female and minority employees in the port control, particularly at the upper levels. FAA notified the city and required a response within 30 days (due in mid-August) containing specific plans for corrective action.

The agency indicated that the goals listed in the present affirmative action plan for the port control probably were not sufficient to satisfy its objections.[28] On September 6 the city of Cleveland notified FAA that the appropriate nondiscrimination posters would be displayed at the city's two airports, and that Cleveland's law department would check all airport tenants' leases signed since June 18, 1970, to make sure all include equal opportunity assurances.[29]

On the strength of these statements, FAA found Cleveland in compliance with Title VI.[30] The violations of Executive Order No. 11246, however, have not yet been resolved. In its October 1, 1977, rejection of Cleveland's September response to the Executive order violations, FAA said, "We feel that the information provided serves to rationalize the existence of the apparent deficiencies, rather than address each inadequacy and propose appropriate correction." FAA requested a conciliation meeting to further discuss these issues and to reach agreement on specific remedial actions to correct the deficiencies.[31]

Robert Dixon, Chief of the Civil Rights staff for FAA's Great Lakes Region, noted that the FAA has not provided field staff with specific guidelines regarding enforcement of Executive Order No. 11246 at airports.[32] The exclusion of most State and local institutions from the requirements of affirmative action under Executive Order No. 11246 limits the agency's review of employment issues to the direct beneficiary of FAA funds. FAA did not review the other sections of the Cleveland affirmative action plan, and does not intend to do so.

Department of Housing and Urban Development

HUD funding to Cleveland is channeled primarily through the city's department of community development, and totals over $21 million for 1977.[33] The major program, Housing and Community Development, disburses funds throughout almost all city departments. Thomas Day, an equal opportunity specialist in HUD's Columbus office, noted that the wide distribution of HUD money gives the agency both the opportunity and the virtually impossible task of monitoring the civil rights compliance efforts of nearly every department in city government.[34]

As early as 1975, HUD's compliance review found deficiencies in the employment practices of the department of community development.[35] No specific enforcement action was taken at that time. The agency chose to wait for the long promised affirmative action plan.

When the plan was finally submitted in June 29, 1977, Cleveland asked for HUD's approval. That approval was not forthcoming. Instead, HUD sent Mayor Perk a letter on June 29, 1977, citing several areas of noncompliance in the city's use of Housing and Community Development Act funds.

After an assessment of the rehabiliation grant program on May 23 and 24, 1977, HUD's equal opportunity division concluded that the staffs of neighborhood centers were racially segregated and that this affected services dispensed by those centers. HUD found "virtually no Spanish-speaking persons—employed in either of the two Westside offices" (offices serving the Spanish-speaking community).[36] In addition, women on the staffs of neighborhood centers were paid less than men performing similar duties. HUD received the city's response on August 9, but has yet to review it. Day stated that should the response be inadequate, the equal opportunity division of HUD intends to

ask that the agency immediately undertake a thorough Title VI compliance review of all HUD-funded programs in Cleveland.[37]

Federal agencies reviews of Cleveland's affirmative action plan and their civil rights enforcement efforts in Cleveland in general have been uneven. Several agencies (Office of Revenue Sharing, Department of Housing and Urban Development, and the Federal Aviation Administration) found the city in noncompliance with civil rights requirements prior to the development of the plan and that the plan was an inadequate response to the violations they uncovered. The Environmental Protection Agency found the plan to be basically sound. The Urban Mass Transit Administration claimed that it was beyond their jurisdiction to review the plan. Among those who have reviewed the plan, some followed detailed guidelines in conducting reviews, while others used general principles in determining compliance.

The lack of uniformity and occasional contradictions in the Federal Government's civil rights enforcement effort in Cleveland create unnecessary administrative problems for the city, and dilute efforts aimed at securing equal employment opportunity.

Notes to Chapter 6

1. Department of Housing and Urban Development; Law Enforcement Assistance Administration; Department of Labor; Environmental Protection Agency; Federal Aviation Administration; Department of Health, Education, and Welfare; National Highway Traffic and Safety Administration; Urban Mass Transit Administration; Office of Revenue Sharing; Economic Development Administration; and the Office of Federal Contract Compliance Programs.

2. Federal grants for 1976 and 1977 for the city of Cleveland. List provided Commission staff by Mark L. Driscoll, director, office of budget and management, city of Cleveland, Apr. 13, 1977.

3. *The Cleveland Press*, May 17, 1977, p. 12-A.

4. U.S., Commission on Civil Rights, *The Federal Civil Rights Enforcement Effort—1974*; vol v, *To Eliminate Employment Discrimination* (July 1975), p. 618.

5. James LaVanchy, Assistant Area Manager, U.S. Civil Service Commission, Dayton, Ohio, letter to Lewis Nicolini, Department of Labor, Associate Regional Administrator, Employment and Training Administration, Chicago, Ill., Mar. 10, 1977.

6. Richard B. Kaufmann, Department of Labor, Chicago, Ill., staff interview, Chicago, July 6, 1977.

7. James LaVanchy, letter to Lewis Nicolini, June 10, 1977.

8. Region V, ETA CETA letter No. 77-47, Apr. 28, 1977, "An EEO Effective Mechanism" for Ensuring Equal Employment Opportunity in CETA programs.

9. Ibid., p. 9.

10. Ibid., p. 7.

11. In his October 3, 1977, letter to Civil Rights Commission staff, Lewis F. Nicolini, Associate Regional Administrator (DOL) for Ohio stated, "the delegation of EEO responsibility to the Personnel Director, while not ideal, does not constitute an out-of-compliance situation." This Advisory Committee report, however, addresses the issue of whether or not the responsibility and authority of the affirmative action officer meets DOL regulations.

12. Richard Dell, equal opportunity specialist, Office of Civil Rights and Urban Affairs, Environmental Protection Agency, Chicago, Ill., telephone interview, June 29, 1977. Roland L. Cornelius, Director, Office for Civil Rights and Urban Affairs, Environmental Protection Agency letter to Henrietta H. Looman, Chairperson, Ohio Advisory Committee, Sept. 22, 1977.

13. Edwin Finney, equal opportunity specialist, civil rights division, Economic Development Administration, Chicago, Ill., telephone interview, June 29, 1977.

14. 15 C.F.R. Part. 8.

15. Bernadine Denning, Director, Office of Revenue Sharing, letter to Ralph Perk, mayor, city of Cleveland, May 10, 1977.

16. Ralph Perk, mayor, city of Cleveland, letter to Bernadine Denning, June 29, 1977.

17. Bernadine Denning, letter to Ralph Perk, Aug. 5, 1977.

18. Winifred Dunton, attorney/advisory, Office of Civil Rights Compliance, LEAA, telephone interview, Aug. 11, 1977. Edward R. Stege, Legal Aid Society of Cleveland, telephone interview, Sept. 26, 1977.

19. Ibid.

20. 42 Fed. Reg. 9492 (Feb. 16, 1977).

21. 28 C.F.R. §42.207(b).

22. Winifred Dunton, telephone interview, Aug. 11, 1977.

23. Winifred Dunton, letter to Henrietta Looman, Chairperson, Ohio Advisory Committee, Sept. 23, 1977.

24. Juan Paredes, equal opportunity specialist, Office of Civil Rights, Urban Mass Transit Administration, telephone interview, Aug. 10, 1977.

25. Harry Mohr, assistant equal opportunity officer, Ohio Department of Transportation, telephone interview, Aug. 11, 1977.

26. Ursula Dick, equal opportunity specialist, Office of Civil Rights, FAA, Des Plaines, Ill., telephone interview, Aug. 15, 1977.

27. Robert Dixon, Chief, Civil Rights Staff, FAA, Des Plaines, Ill., letters to Andrew Putka, director, department of port control, division of airports, Cleveland, June 6, 1977, and July 13, 1977.

28. Robert Dixon, telephone interview, Aug. 15, 1977.

29. Mary Springman, letter to Ursula Dick, Sept. 6, 1977.

30. Robert Dixon, letter to Andrew Putka, Sept. 14, 1977.

31. Robert Dixon, letter to Andrew Putka, Oct. 1, 1977.

32. Robert Dixon, telephone interviews, Aug. 15, 1977, and Sept. 21, 1977.

33. Federal grants for 1976 and 1977 for the city of Cleveland. List provided Commission staff by Mark L. Driscoll, director, office of budget and management, city of Cleveland, Apr. 13, 1977.

34. Thomas Day, equal opportunity specialist, Department of Housing and Urban Development, Columbus, Ohio, telephone interview, Aug. 15, 1977.

35. According to the affirmative action plan, women constitute 29.4 percent of all employees in the department of community development, including 95.4 percent of all clerical workers, 30.8 percent of the professionals, 12.5 percent of officials and administrators, and 4.4 percent of technicians.

36. John Riordan, Director, Community Planning and Development Division, HUD, letter to Ralph Perk, mayor, city of Cleveland, June 29, 1977.

37. Day interview, Aug. 17, 1977, and Sept. 23, 1977.

Chapter 7

Findings and Recommendations

Findings

Economic Development and the Status of Minorities and Women in Cleveland Metropolitan Area

A. Economic development of the Cleveland metropolitan area has followed a pattern similar to that of major cities across the Nation, as people, jobs, and money have been moving out of the central city and into the suburban ring.

1. In recent decades, central city residents have become poorer, less likely to work in professional occupations, and more likely to be unemployed compared to suburban residents.
2. The proportion of minorities and women in the labor market has increased at a much faster rate within the central city than in the suburban ring.

B. Economic status of minorities and women in the Cleveland metropolitan area has followed a pattern similar to that of minorities and women nationally. According to some indicators, progress has been made in eliminating disparities between minorities and women and the majority population. According to others, however, little progress has been made and in some areas the disparities have increased.

1. At the local and national levels, minorities and women have increased their representation among professional workers, but those who have obtained professional positions remain concentrated in lower paid professional jobs.
2. At the local and national levels, the median family income of minorities has improved slightly as a proportion of the median income of white families while the median income of women has fallen further behind that of men.
3. At the local and national levels, minorities and women have consistently earned less than whites and men within the same occupational group or with comparable levels of educational attainment.
4. At the national level, the unemployment rate of minorities has consistently been approximately twice the rate of whites while the gap between women and men has been increasing. At the local level, the gap between minorities and whites has closed somewhat while women have had a slightly lower unemployment rate than that of men.
5. At the local and national levels, minority families and female-headed families have accounted for an increasing proportion of families living on incomes below the poverty level.

Employment of Minorities and Women in Cleveland City Government

A. The employment status of minorities and women with the Cleveland city government has changed little in recent years.

1. While the proportion of minorities in city government is comparable to their proportion in the Cleveland labor force (even within professional and administrative occupations), the median income of minorities has been consistently lower than that of white workers. Minorities who have obtained professional or administrative positions are concentrated in the lower paid professional or administrative jobs.
2. The proportion of women in city government is far below their proportion in the Cleveland labor market, and the median income of women is far below the median income of men, even among those employed in comparable occupational categories.

B. The city of Cleveland has been found guilty of intentional discrimination against minorities and women by several Federal judicial authorities and administrative agencies. The city has been ordered to implement hiring plans containing specific numerical requirements in order to upgrade the status of minorities and women.

Cleveland's Affirmative Action Plan

In May 1977 the city of Cleveland developed an affirmative action plan. There are several deficien-

cies in the content of the plan, and problems have already arisen in the city's attempts to implement the action programs called for in the plan.

1. The plan fails to identify problem areas in the city's employment policies and practices which account for how existing employment patterns in terms of utilization of minorities and women developed. As a result, the plan fails to describe specific action programs to correct those problems. The action programs described in the plan lack specificty in what steps will be taken and who will perform the work. The programs frequently call for a study to be followed by recommendations rather than for specific action to overcome a previously identified problem (as should be the case in an affirmative action plan).
2. Overall responsibility for implementation of the plan rests with the director of personnel. This raises a potential conflict of interest since the director of personnel may be called upon to evaluate practices he or she originally designed and for which he or she is responsible.
3. The city of Cleveland violated one of its own principles for effective affirmative action by failing to appoint a top management official for the position of affirmative action officer.
4. The staff assigned to put the plan into effect is not large enough to handle the workload. The city has already failed to meet two target dates set in the plan: one for training 200 supervisory personnel and the other for completing the first phase of the work force and applicant flow data processing.
5. In the work force analysis, the city presents data that clearly demonstrate the distribution of city employees among occupational categories by race and sex, but no citywide data on distribution by race and sex among various income levels is reported. The work force analysis also does not indicate the income of various groups within occupational groups for the city as a whole. The failure to provide such citywide income data hides the extent to which minorities and women are concentrated in lower paying positions even within occupational groups.
6. The goals included in the plan are for 1 year only. No long term goals are projected and the department of personnel does not anticipate developing long term goals in the near future.
7. Goals were stated on a department-by-department basis. No attempt was made to develop goals for the city government work force as a whole. When the goals of each department are aggregated, analysis shows that the goals for the coming year call for the city to hire minorities and women at a lower rate than they are currently employed. Under Revised Order No. 4, "goals and timetables...must be directed to correct the deficiencies." Therefore, Cleveland's affirmative action plan is not in compliance with Federal regulations.
8. No numerical goals were set for the police or fire departments, despite the fact that the city has been ordered by the courts to implement a hiring plan containing specific requirements governing the percentage of new hires that are to be minority or women.
9. There are serious differences of opinion within city leadership on the merits of the plan. While the mayor has endorsed it, the president of the city council has publicly stated that he will not support the plan. There is no unified support of the plan from the top of city government.
10. The city's history of discrimination, the deficiencies in the plan's content and implementation mechanism, and the lack of unified support raise questions as to whether or not the city is acting in good faith to eliminate employment discrimination.

Cleveland's Contract Compliance Program

While the city's contract compliance program includes some of the key elements for an effective program, there are serious deficiencies which have restricted its effect in opening employment opportunities for minorities and women in the Cleveland area.

1. Contractors doing business with the city are not required to establish specific goals and timetables as part of their affirmative action plans in order to be eligible for city business.
2. The program allows for strong sanctions against contractors who are found to be in noncompliance with city equal employment opportunity requirements, including cancellation of current contracts and disbarment from bidding on future city contracts. Such sanctions are to

be imposed after negotiations have proven to be unsuccessful and if "after a reasonable time" necessary corrective actions are not taken. However, no specific timetable has been established to govern the length of time negotiations are permitted to be conducted, or to determine what a "reasonable time" is for implementation of corrective action. (This situation has not yet caused any problems since no firm awarded a contract by the city to date has been found in noncompliance.)

3. Approximately one-third of all city contracts worth $10,000 or more go to contractors located outside the city of Cleveland.

4. Minorities and women are seriously underutilized by contractors located in Cleveland who receive contracts worth $50,000 or more and who employ 25 or more people. If employment opportunities for minorities and women within these firms have changed in recent years, the picture appears to be worse.

5. The contract compliance program in the city of Cleveland has had a negligible effect on the employment opportunities available to women and minorities in the Cleveland area.

The Federal Government's Civil Rights Enforcement Effort

After the U.S. Department of Labor and the Office of Revenue Sharing informed the city of Cleveland that it must submit an affirmative action plan to be eligible for funding, the city developed a plan and submitted it for review to these two agencies and to 10 others from which it currently receives funds.

1. The Office of Revenue Sharing (ORS) has found the city of Cleveland guilty of race and sex discrimination in its employment practices, and therefore in violation of the civil rights provisions under the revenue sharing program. ORS found the city's initial response to these charges to be inadequate and is continuing enforcement efforts against the city.

2. The Law Enforcement Assistance Administration (LEAA) will investigate a second administrative complaint against the city of Cleveland for its failure to hire police officers pursuant to court order. LEAA will also reevaluate the city's performance under previous court orders to determine whether LEAA funds ought to again be withheld or permanently restored.

3. The Federal Aviation Administration (FAA) has found violations of Title VI and Executive Order No. 11246 (equal employment opportunity requirements) within the Cleveland port control department. FAA will obtain compliance from the port control or will initiate enforcement proceedings.

4. The Department of Housing and Urban Development (HUD) has found equal employment violations within Cleveland's department of community development. The city has failed to respond to HUD's demand for corrective action. HUD's equal opportunity office will ask the agency to review all HUD-funded programs in Cleveland if corrective action is not forthcoming.

5. Agencies which were asked to review Cleveland's affirmative action plan have varying regulations regarding employment policies and practices with which recipients must comply.

6. The extent to which these Federal agencies monitor and enforce their own regulations varies widely.

7. Lack of uniformity in equal employment opportunity regulations and enforcement efforts leads to inconsistencies and contradictions in the Federal Government's civil rights enforcement effort. Some agencies have given general approval to Cleveland's affirmative action plan; others have rejected it. Some claim it is not their responsibility to conduct such a review.

8. The diffusion of authority and inconsistencies in the regulations and enforcement efforts by various Federal agencies dilute the effectiveness of the Federal Government in its efforts to secure equal employment opportunity in the Cleveland area.

Recommendations

The Ohio Advisory Committee recommends to the U.S. Commission on Civil Rights that it advise the President to propose and Congress to enact legislation that would provide incentives for private industry to relocate within urban areas, and for disincentives to private industry relocating outside of urban areas. Among the measures that should be taken are the following:

A. Corporations which relocate out of urban areas should be required to provide financial compensation to workers who are laid off or are unable to move with the corporation, and to the communities from which the corporations are moving.

B. Federally-chartered and insured financial institutions should be required to upgrade their services to economically depressed urban areas, particularly when those institutions' depositors are located in such areas.

The Ohio Advisory Committee recommends to the city of Cleveland that it make the following revisions in its equal employment opportunity program as it pertains to employment in city government.

A. The city should create a department of equal employment opportunity parallel to but independent of the department of personnel and other major departments within city government.

B. An experienced professional with thorough knowledge of civil rights issues in general and Federal equal employment opportunity requirements in particular should be appointed as director of the department of equal employment opportunity.

C. The director should be provided with the necessary resources, including money and staff, to conduct an effective equal employment opportunity program, including the development and implementation of an affirmative action plan.

D. The first objective of the department of equal employment opportunity should be the completion of a comprehensive work force analysis documenting the distribution of minorities and women by occupation and salary range, and by salary range within occupational groups for each department and for the city as a whole. Areas of underutilization and concentration should then be identified.

E. The department of equal employment opportunity should then complete a comprehensive analysis of city employment policies and practices to identify the specific policies and practices which negatively affect employment opportunities for minorities and women. The areas to be examined include but are not necessarily limited to:

1. The extent to which politicial affiliation affects employment opportunities. (This should be an open investigation subject to close public scrutiny. A first step would be the release of the Silverman report);
2. Recruitment activities, interview procedures, tests, appointment procedures, promotion policies, and separation practices. (An analysis should be conducted of all employees and potential employees, by race and sex, who progress from one stage to the next in the employment process);
3. The relationship between job titles, descriptions, and prerequisites, and the actual work performed on the job. (As part of its assessment, the city should examine the feasibility of altering or restructuring jobs themselves to maximize the skills, abilities, and interests possessed by current employees);
4. Availability of fringe benefits by race and sex;
5. Accessibility by the handicapped of buildings housing city workers.

Some of these areas are addressed in the current affirmative action plan. What is required is that the city determine specifically how employment opportunities for minorities and women are affected by policies and practices in these areas.

F. Once problem areas are identified, the current affirmative action plan should be revised to incorporate action programs that will result in the necessary corrective action and bring the plan into compliance with Federal regulations. The programs called for will depend on the findings of the analyses of the work force and employment practices. They should clearly state the specific action to be taken, which individuals will have responsibility for implementation of each phase of the programs, and the date by which the programs will be put into effect.

G. Short term goals should be established that will result in an increase by 1978 in the representation of minorities and women in those areas where they are currently underutilized. The city should also set long term goals of employing minorities and women approximately in the same proportion as they are employed in the Cleveland labor market, and a timetable should be established for meeting that goal.

H. The city should immediately take steps to comply with the court orders handed down in the *Shield Club* and *Headen* cases to upgrade the status of minorities and women in the police and fire departments.

The Ohio Advisory Committee recommends to the city of Cleveland that it make the following revisions in its contract compliance program.

A. All companies seeking to do business with the city of Cleveland should be required to submit specific numerical goals and timetables as part of the Bidder Employment Practices Report, if minorities or women are employed at a substantially lower rate than they are represented in the

labor market(s) from which employees are recruited.

1. Bidders should specify short term goals and specific action programs that will be implemented to meet those goals to reduce current underutilization.
2. Bidders should state as a long term goal their intention to employ minorities and women in their total work force and at each occupational and salary level roughly in the same proportion as such groups are represented in the labor market(s) from which employees are recruited. Bidders should also specify the action programs that will be implemented to meet this objective.

B. Timetables should be established that would set limits to the length of time the city would negotiate with contractors found in noncompliance with city equal employment opportunity requirements, and would set limits to the length of time such contractors would have to take corrective action. If corrective actions are not forthcoming once the stated period has passed, the city should immediately begin enforcement proceedings by imposing appropriate sanctions, including but not limited to cancellation of current contracts and disbarment from bidding on future city contracts.

The Ohio Advisory Committee recommends that the U.S. Commission on Civil Rights seek the following action from Federal civil rights enforcement agencies.

A. Each Federal agency that has been asked to review Cleveland's affirmative action plan and has not done so should complete their reviews and inform the city of the plan's deficiencies within 60 days.

1. Each such agency should inform the city of any violations of their regulations that may exist.
2. Each such agency which provides Federal funds to the city of Cleveland should require corrective action on the part of the city within the time frame indicated in their regulations or within 90 days at the latest.
3. If corrective action is not subsequently forthcoming, each agency should notify the city that administrative proceedings will be initiated to terminate Federal funds within 60 days.

B. Each Federal agency that has determined Cleveland is not in compliance with equal opportunity requirements pertaining to its program, namely the Office of Revenue Sharing (ORS), the Law Enforcement Assistance Administration (LEAA), the Federal Aviation Administration (FAA), and the Department of Housing and Urban Development (HUD), should vigorously pursue the enforcement procedures mandated by current regulations applicable to their agency. Where the city has been nonresponsive to the charges raised by the agency or has given a deficient response, the agency should move forward under the timetables set forth in its regulations to terminate those Federal funds to the city of Cleveland.

The Ohio Advisory Committee recommends that the U.S Commission on Civil Rights advise the President to propose and the Congress to enact legislation that would consolidate within one Federal agency all equal employment opportunity oversight and enforcement activities involving Federal grants to State and local governments and to private sector organizations. That one identifiable Federal agency should develop a comprehensive set of specific equal employment opportunity regulations and guidelines which recipients must be required to follow. The agency should also establish uniform monitoring and enforcement procedures for all equal employment opportunity officials to follow in conducting their oversight duties.

A. Regulations and guidelines for recipients should require affirmative action (including numerical goals and timetables) to correct any discriminatory employment practices which may be uncovered.

B. At a minimum, the employment policies and practices of 25 percent of all recipients receiving $1 million or more in each calendar year should be reviewed annually. Where deficiencies are identified, recipients should be given no more than 60 days to respond, indicating specific action programs that will be taken to overcome those deficiencies. If that response is not sufficient, the recipient should be notified that administrative proceedings to terminate Federal funds will be initiated within 60 days.

APPENDIX A

Response of the Affirmative Action Officer to *Affirmative Action or Inaction? The Pursuit of Equal Employment Opportunity in Cleveland*

City of Cleveland
RALPH J. PERK, MAYOR

OFFICE OF PERSONNEL
DEAN J. SCHANZEL
DIRECTOR

September 23, 1977

Ms. Henriette H. Looman
Chairperson
Ohio Advisory Committee
United States Commission on Civil Rights
230 South Dearborn Street
Chicago, Illinois 60604

Dear Ms. Looman:

The City of Cleveland was informed early this year that the Ohio Advisory Committee to the U.S. Commission on Civil Rights had decided to undertake a review of the City's equal employment opportunity programs (i.e., affirmative action and contract compliance) for the purpose of writing and publishing a report.

On February 3, 1977, Dean J. Schanzel, Director of Personnel, and I met with Valeska Hinton, your staff representative, to discuss the status of the City's Affirmative Action Plan. When the Plan was released in May, we sent a copy to your Chicago office immediately. On June 22 I again met with Ms. Hinton, two (2) other Commission staff people, and a member of your Committee to answer questions resulting from their review of the Plan. Other information was provided both by mail and over the telephone.

All of this was done in spirit of cooperation and with the belief that the Committee would develop a fair, though not necessarily uncritical, assessment of the City's attempt to insure equal employment opportunity within its own employment and among its contractors. Unfortunately, the draft report which we received on September 12 does not live up to these expectations.

There is no doubt that a considerable amount of research was done in the development of the report. Thus, many of the facts are indisputable. However, the presentation of information and the interpretations which are made give rise to questions regarding the intent of the Ohio Advisory Committee to the U.S. Commission on Civil Rights. In addition, it cannot go unnoted that the list of persons in Cleveland who were selected to be interviewed consists largely of those who are known to

be critical of the City Administration.

Two examples of this latter are especially glaring. Why were Edward R. Stege, Jr., Jane Picker, and Barbara Besser, all of whom are attorneys representing individuals and groups with suits against the City, interviewed and quoted, but none of the attorneys representing the City in these cases were contacted? In this regard it must be pointed out that, on page 16 of Section III of the report, Mr. Stege is identified as "the lawyer for the defendants in the Shield Club cases" when, in fact, he represents the plaintiffs.

Why, of the five (5) members of the Civil Service Commission, was only Robert Weissman, a well known political adversary of Mayor Ralph J. Perk, selected to be interviewed and quoted? It would seem logical that the Commission President, who incidentally is black, would have been the primary source of information on the activities of that body. Mr. Weissman is reported to have said that "virtually every job at all levels in City government are political appointments with a few exceptions, primarily in the police and fire departments." This statement was apparently corroborated for the Commission by William O. Walker, Mr. Stege, and Roldo Bartimole. However, the record indicates something quite different. More than sixty percent (60%) of those persons currently employed by the City have been working for the municipal government longer than six (6) years, the tenure of the current administration, and sworn members of the Divisions of Police and Fire account for less than one third (1/3) of the work force.

The Silverman Report is also mentioned in the context of assertions that most City employees are political appointees. This report, the culmination of a study conducted for the City by William Silverman in 1976, had not been released because City officials had not had the opportunity to complete their review and assessment of the findings and recommendations. One local newspaper branded that as an attempt at a "cover-up", and the Commission has accepted that view. However, there was never any intent to keep the report secret, and it along with Director Schanzel's assessment of it were released on September 4.

The documentation of the statistical data set forth in Section II of the report is impressive. We must wonder, however, why in the midst of the narrative, the Commission calls into question the validity of its own sources with respect to unemployment data on women by use of the phrase, "at least according to official figures", on page 13. Does this suggest that the various reports listed in the footnotes do not contain accurate data? Or does the Commission believe that only statistics on women have been erroneously computed?

With regard to the case of Shield Club v. City of Cleveland, which is described in Section III, it must be pointed out that on September 12, 1977, the City dropped its appeal of Judge William K. Thomas' ruling. While this action cannot be interpreted as an admission by the City that purposeful discrimination took place, it certainly signals a desire to expend time, efforts, and resources to correct the undeniable imbalance of minorities at all levels within the Division of Police instead of pursuing litigation.

It is totally untrue to say that the City refused to appoint Police from the eligibility lists. Hiring was, for a time, delayed by pending litigation. However, on Monday, August 22, sixty (60) persons who had been appointed early in the summer were graduated from the Police Academy. Of that group, twenty-two (22), or 36.7%, are minorities, and eleven (11), or 18.3%, are women. In addition, forty-four (44) persons were sworn in and began training on September 2. This group includes seventeen (17), or 38.6%, minorities and eleven (11), or 25%, women. It is expected that additional appointments will be made before the end of the year.

With regard to the case of Hardin v. City of Cleveland, it is true that part of the defense was based upon the City's Affirmative Action Plan since that document clearly demonstrates an intent to insure increasing job opportunities for minorities, women, and members of other protected classes not only in the safety forces but throughout the City work force. However, it must also be pointed out that separate hiring lists and the Women's Bureau were abolished in January 1975, and since that time, women have had the opportunity to work throughout the Division of Police units.

No discussion of the need to increase the utilization of minorities and women is complete without mention of the parapolice program. This innovative program, which was instituted by Mayor Ralph J. Perk, is designed to provide better police protection for those who live and work in Cleveland while at the same time serving as a means of career development for persons who are interested in becoming police officers. The enabling legislation for this program was passed in July of this year, and a subsequent ordinance, enacted in August, provides a ten point preference for Parapolice Officers taking a test for entry to the Division of Police. When the program is at full strength, there will be two hundred fifty (250) Cadet Parapolice Officers and one hundred (100) Traffic Controllers. Already one hundred thirty-nine (139) Parapolice have begun training. Of that number, one hundred ten (110), or 79.1%, are black, four (4), or 2.9%, are Hispanic, one (1), or 0.7%, is American Indian, and seventy-seven (77), or 55.4%, are women.

Not even a semblance of fairness was retained in the portion of Section III dealing with the Office of Revenue Sharing (ORS). How can a two and a half page quote from the May 10 letter from the Office of Revenue Sharing and a one sentence paraphrase from the City's lengthy response be justified? In Section VI where the matter is dealt with a second time, the situation is no better. The City's letter is only paraphrased, with the Commission's interpretation interspersed, while specific language from the Office of Revenue Sharing documents is used.

On September 7, two City attorneys and I met in Washington, D.C. with Treadwell Phillips, Chief of the Division of Civil Rights of the Office of Revenue Sharing, and Horace Burnett of his staff. We took with us a draft of our responses to issues raised in the August 5 letter from ORS, and there is no doubt that many of the questions have been adequately answered. Those which still appeared troublesome were discussed in some detail, and the City has been given until November 1 to submit its formal and detailed response to the August letter. While it would be inappropriate here to detail the contents of a document which is still in the developmental stages, there is no doubt that the City will fulfill the requirements necessary to insure ORS that equal employment opportunity is a reality. There is certainly no impasse in this situation.

The story of Ione Biggs has been widely touted, especially by the organization, Cleveland Women Working, of which she is a member, as an example of the City's discrimination against women. However, Ms. Biggs is an employee in the Office of the Clerk of Courts which is not part of the administrative branch of City government and thus is not subject to our personnel policies and practices. The Clerk is an elected official who makes independent decisions regarding the terms and conditions of employment in his office. Thus, to include Ms. Bigg's account in your report only raises further questions about the objectivity with which the Commission and its Ohio Advisory Committee approached this project.

With regard to Section IV of the report which deals specifically with the Affirmative Action Plan (AAP), a number of comments are in order.

At the outset we must wonder why the section is headed, An Affirmative Action Proposal? Is this meant to insinuate that the term, Plan, is inappropriate when applied to the City's AAP? If so, we must question the reasoning behind such implication. Our Affirmative Action Plan was developed using Revised Order No. 4 of the Office of Federal Contract Compliance Programs, U.S. Department of Labor, as the guideline, and the Plan meets all of the requirements as well as many of the recommendations contained in that document. Revised Order No. 4 is widely recognized as the basic blueprint for Affirmative Action Plans.

Your report quotes two sources who indicated that the only reason an Affirmative Action Plan was developed was because of pressure from Federal agencies, and reference is made to letters received from the U.S. Department of Labor and the Office of Revenue Sharing in April and May 1977, respectively. However, the report does not reflect the fact that work on the City's AAP began in June 1976, that in January 1977 the Federal agencies received letters from Director Schanzel indicating the progress being made, and that by April the Plan was at the printer.

Throughout Section IV, reference is made to "the failure to identify the specific problem areas which account for how the existing employment patterns developed." Yet each of the nine (9) action programs described in Volume I of the City's AAP begins with a statement of the problem. It is true that no rhetoric was wasted on the historical development of these problems or on pointing an accusing finger at individuals or groups who may have contributed to the situation. Is it not enough to recognize the existence of a problem or potential problem and to begin to work toward a solution? The Commission seems to imply that unless the City engages in self-indictment and declares that, indeed, intentional discrimination has occurred, no effective affirmative action can take place.

Relative to implementation of the AAP, the report questions the statement that the Mayor has the ultimate responsibility for this. The Chief Executive Officer, whether in the public or private sector, always bears the burden of carrying out organization policy. Further, the Commission criticizes the assigning of the Affirmative Action Officer and staff to the Department of Personnel, citing "a potential conflict of interest". There is a difference of professional opinion on this issue. However, there are specific advantages to being located in the Department of Personnel where my staff and I have immediate access to records, are part of the daily activities involved in personnel administration, and can have direct impact on the work of the Department. A major drawback of being a separate entity, even with the support of the Mayor, would be being viewed as an unfriendly watchdog with whom procedures, problems, and up to date information should not be shared. In the September 1 issue of Fair Employment Practices, the Bureau of National Affairs reports on the doctoral dissertation of Dr. Stephen L. Robinson which is entitled The Manager Equal Opportunity Programs: A Descriptive Study of an Emergent Organizational Role. In a nationwide survey of two hundred sixty-four (264) EEO managers, Dr. Robinson found that 67% were associated with the personnel/industrial relations areas of their organizations, while 14% reported directly to the top officer.

With regard to dissemination of the AAP, several of those things outlined have already been accomplished including distribution of copies to Directors, Commissioners, and other supervisory

personnel, meetings with Directors and Commissioners, a presentatio to the Civil Service Commission and inclusion of an EEO phrase on our letterhead. Additionally, there was extensive newspaper coverage of the Plan when it was released in May, including an article headed, Cleveland's Affirmative Action Plan Promises Meaningful Gains For Minorities, in the July 2 edition of the Call and Post.

I did, in fact, indicate in my June 22 meeting with Commission representatives that two target dates for action programs had not been met. But in reporting these, the implication is that this signals a lack of commitment on the part of the City to implementing the Plan. This simply is not true.

With regard to the Work Force and Applicant Flow Data, an entirely new computerized personnel/payroll system is being developed for the City by the company which operates our Data Center. Our EEO data is only one component of this complex program. Early this year, we believed that the new system would be operable by June 30, 1977. However, the decision to include additional items in the program from the outset and the need to train a large number of City staff regarding new procedures has delayed the start-up time to January 1, 1978.

The City applied for an Intergovernmental Personnel Act (IPA) grant to cover the cost of training for two hundred (200) supervisors in equal employment opportunity more than a year ago. The fact that we are still awaiting final notification of the approval of our proposal is the result of delays first at the State level and then with the U.S. Civil Service Commission. It should be pointed out that these delays have had nothing to do with the content of the City's Affirmative Action Plan. Most recently we have been told that we can expect approval of our grant within the next thirty (30) days. If that occurs, the training of most of the supervisory persons will be completed before the end of the year. Staff of the Department of Personnel, the Commissioners, and others will participate in this training. Thus, steps will be taken to "insure that interviewers will be familiar with equal opportunity guidelines".

The Commission report makes light of the City's stated intention to study our benefit programs and to survey our physical plant relative to accessibility for the handicapped. In both instances the Affirmative Action Plan contains a statement indicating that the goal is to identify problem areas and to make recommendations regarding correction. This, according to the report, is not specific enough. But how can solutions be enumerated before the scope of the problems are identified? As to who will receive reports and recommendations, obviously they must go to the Mayor, and if legislation is required, to City Council.

We are also criticized for not making reference to the City's plans to comply with regulations from the Department of Health, Education and Welfare regarding equal opportunity for the handicapped. HEW Secretary Joseph Califano issued these regulations on April 28, long after the AAP had been sent to the printer.

In the area of recruitment, we have recently provided a list of thirty (30) organizations and agencies in the Cleveland area which have primary concern for minorities, women and the handicapped to the Civil Service Commission with instructions that announcements of all future examinations be sent to these groups. I already have ongoing contact with many of the agencies on the list and will establish links with the others as our recruitment efforts are formalized.

Selective use of the media has been in the past and will continue to be an important means of recruitment when there are openings for persons with specialized skills or when a large pool of applicants is needed for particular positions. Both print and electronic media will be used with special attention given to those newspapers (e.g., the Call and Post and El Sol) and radio stations (WJMO and WABQ) which have a large minority readership and audience. Within the last two months, in recruiting for the City's new parapolice program, special advertisements were run in the Call and Post and spot announcements were aired on WJMO. When ads are placed in newspapers, the phrase, An Equal Opportunity Employer, will continue to be included.

In relation to our proposed Skills Bank and Employee Counselling Program, the report includes the suggestion that "jobs themselves can frequently be changed or expanded to involve new and greater responsibilities". While this may be workable in some areas, with most classifications it would be contrary to the City's agreements with various unions, and the sanctity of collective bargaining agreements has been upheld even by the Supreme Court.

The EEO Grievance Procedure is presented in great detail, including a timetable for processing a complaint, in Appendix C, beginning on page 55 of Volume I of the Plan. Yet there is still an accusation of lack of specificity.

It is absolutely inconceivable that the work force analysis, which covers more than six hundred (600) pages of raw data, presented in three separate formats for each division can be termed "misleading" Many months were spent in compiling this data and presenting it in a manner which permits detailed analysis of our strengths as well as our shortcomings.

The issue of goals and timetables was discussed at my June 22 meeting with Commission representatives but not with the results reported on page 19 of Section IV of your report. What I said at that time was that intermediate goals for two or three years will be included in the 1978 edition of the AAP, and that as we gain experience with implementation of numerical hiring goals and are able to develop better data on attrition rates and other variables, long range goals will be developed.

Criticism is leveled at the fact that the 1977 goals are outlined on a division-by-division basis rather than Citywide. This seems to contradict other statements in the report calling for more detail. If goals were projected for the City as a whole, for example, the need for more employment opportunities for blacks would be greatly distorted since the total figures show the City just one percentage point short of parity in this area. That obviously would not take into consideration the varying employment patterns of blacks in City divisions. It is this kind of over simplification which leads to the Commission's conclusion that the "1977 goals...will serve to exacerbate rather than ameliorate existi underutilization of protected groups." It also goes without saying that there is no claim on the part of the City to correct all problems of underutilization in one year.

On page 22 of Section IV is the statement: "While the plan cites the specific court order and the requirements handed down by the judges regarding police and fire department hiring, the plan does not state explicitly the hiring intentions of these two departments, or even that they intend to comply with the court orders." Is the Commission implying that the City intends to purposely be in contempt of court?

In relation to Section V involving the City's contract compliance program, it must be pointed out that the Office of Contract Compliance was created by ordinance in 1969, not in 1974.

The administrative compliant regarding use of Comprehensive Employment and Training Act (CETA) funds by the Cleveland Area Western Reserve Manpower Consortium which was filed with the Department of Labor in April was, of course, returned to the Consortium for arbitration because the complainants had not exhausted the administrative remedies available to them. Arbitration has now been completed and the opinion rendered. That opinion reads in part: "No evidence has been submitted to substantiate any of the alleged violations.... Complainant has completely failed to substantiate any violations by any acceptable standard of evidence....References to totally unrelated regulations, partial quotations of regulations which are taken out of context and do not even apply to the action in question and general references to what complainant sees as fact with absolutely no supporting documentation, leave no alternative. I, therefore, find that the grievance filed by the Legal Aid Society on behalf of the Greater Cleveland Welfare Rights Organization et al, is totally without merit."

Finally, we wish to make you aware that a September 14 letter from R. I. Dixon of the Federal Aviation Administration stated in part: "...the City of Clevleand, Department of Port Control, is in compliance with Title VI of the Civil Rights Act of 1964 and Title 49, Code of Federal Regulations, Part 21."

The U. S. Commission on Civil Rights has had a long and distinguished history enjoying a great deal of respect from people throughout the nation. It is to be hoped that the many reports that have been published over the years have not been as biased and distorted as this draft report involving the City of Cleveland.

Sincerely,

Mary Adele Springman
Affirmative Action Officer

MAS:lgl

cc: A. S. Fleming
J. A. Buggs

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APPENDIX B

Response of the Ohio Advisory Committee to the Comments of the Affirmative Action Officer

MIDWESTERN REGIONAL OFFICE
230 South Dearborn Street, 32nd Floor
Chicago, Illinois 60604
Telephone (312) 353-7371

Response of the Ohio Advisory Committee to the
Comments of the Affirmative Action Officer

The response of the Affirmative Action Officer reprinted in Appendix A, and that of the Contract Compliance Officer in Appendix C, provide valuable information on the pursuit of equal employment opportunity in Cleveland. These responses provide further insight into the problems in the city, and the attempts to resolve them. Factual inaccuracies in the preliminary draft noted in these responses are corrected in this final report. Important differences of opinion remain, however, and these differences should be made known to the public. In general, the Ohio Advisory Committee finds that these responses provide further confirmation of the major findings and recommendations of the report.

The sole intent of the Committee was to evaluate the extent to which equal employment opportunity is a reality in Cleveland in general, and specifically, to evaluate the city's recently adopted affirmative action plan, the Contract Compliance program, and the civil rights enforcement efforts on the part of the appropriate Federal agencies.

As evidence of potentially suspect intentions, the Affirmative Action Officer refers to the individuals contacted by the Committee in the course of its investigation. Several key city officials were contacted in the process of gathering data for the report. Onio

Advisory Committee members and U.S. Commission on Civil Rights staff members met with the Affirmative Action Officer, the Contract Compliance Officer, the Director of Personnel, and the President of the City Council.

A meeting with the Mayor was scheduled for February 3, 1977, but due to other business to which the Mayor had to attend, a meeting was held instead with the Director of Personnel and the Affirmative Action Officer.

Civil Service Commissioner Weissman was contacted to verify newspaper report which cited him as one of many critics who claim politics has an undue influence on city employment practices. Weissman, and several others, were quoted simply to point out that this is one issue that is being debated in the city, and the Committee believes the fact that this debate is going on should be noted. However, no conclusion was drawn by the Committee other than that this issue exists. The Affirmative Action Officer notes that most city employees were hired before the current administration took office. But the issue discussed here is not the policy of any particular administration. As the report clearly states, Weissman believes "things were probably not much different in other recent administrations." Therefore, the fact that "sixty percent (60%) of those persons currently employed by the City have been working for the municipal government longer than six (6) years, the tenure of the current administration," is irrelevant.

The Committee did not suggest that the city intended to keep the Silverman Report a secret. The report merely makes reference to the fact that several groups, including the Committee, had made several attempts to obtain a copy of the report. On June 3, 1977, the Committee wrote the Mayor asking for a copy of the Silverman Report. As indicated in the report, the Mayor never responded to this request. On June 22, 1977, the Committee asked George Forbes, President of the City Council, for a copy of the Silverman Report. He said he would obtain a copy and send it to the Committee. Several phone calls were made to Forbes' office asking when the report would be sent, but with no success. Also, on June 22, 1977, the Affirmative Action Officer was asked to provide the Committee with the report. Since the report had not, at that time, been released to the public, she was unable to meet this request. Not until September 30, 1977 did the Committee discover that the Silverman Report had been released.

Data gathered by the U.S. Census Bureau and utilized by the U.S. Department of Labor in measuring unemployment are the most reliable available. But, for reasons explained in Chapter II, these data cannot be accepted on face value. In its August 1975 publication, Coverage of Population in the 1970 Census and Some Implications for Public Progress (Series P-23), the U.S. Census Bureau acknowledged the undercount which occurred in its own data gathering procedures, and analyzed the undercount by race, sex, region, and state. As indicated in the report, many economists in this area have pointed out the deficiencies in how

the U.S. Department of Labor measures unemployment. The report explicitly demonstrates how such data gathering and reporting techniques affect those data which are reported for women, racial minorities, and the population in general. Census data represents a valuable source of information, however, it is important to understand its limitations particularly when using such information in developing public policy.

In discussing efforts to improve minority representation in the police department, major emphasis is placed on a new "para-police" program implemented in the summer of 1977. In terms of authority, duties, responsibilities, compensation, and training, these new positions are not comparable to those on the current police force. It is true that over 80 percent of the para-police personnel are minorities and over 55 percent are women, and it is laudable that these individuals will be granted preference in entry level examinations for regular police positions. It appears to the Committee, however, that this program amounts to the creation of a set of subordinate level positions to be reserved primarily for minorities and women, and that the program does not adequately address the problem of discrimination in the police department.

In a September 30, 1977 telephone interview with Treadwell Phillips, Chief of the Division of Civil Rights, Office of Revenue Sharing (ORS), Commission staff was informed that the city of Cleveland remains in noncompliance with the civil rights provisions of General

Revenue Sharing. At the September 7, 1977 meeting ORS agreed to give the city until November 1, 1977 to comply with the violations cited in the May letter. At the September meeting the city agreed to take the appropriate action that would bring it into compliance, according to Phillips. However, Phillips stated that until the necessary documents were submitted by the city, and reviewed by ORS, Cleveland is in noncompliance with ORS regulations.

Chapter IV is entitled "An Affirmative Action Proposal" precisely because the plan released in May does not constitute an adequate affirmative action plan. That chapter explains why this is the case. One reason, as indicated in the report, is that the Committee believes it does not meet the requirements of Revised Order No. 4.

Two sources cited in Chapter IV suggested that Federal pressure was a key factor, if not the key factor, which motivated the city to develop an affirmative action plan. Nowhere does the Committee, or any of its sources, state that Federal pressure was the only factor. The city did begin working on its affirmative action plan in June 1976. But Revised Order No. 4, which the Affirmative Action Officer states "is widely recognized as the basic blueprint for Affirmative Action Plans," was issued in 1971.

The sections in Volume I which describe nine action programs do begin with a statement of problems. But, as indicated in Chapter IV, in most cases the statement is one about how the particular problem can, in general, serve as a barrier to employment opportunities for

minorities and women. What is lacking is an analysis of how specific problems in the employment procedures utilized by the city of Cleveland contributes to the specific patterns of underutilization in Cleveland city government. It is precisely the historical development of these problems which is required in order to understand how current employment patterns manifested themselves. No self-indictment is called for. What is required is an objective analysis of the history of employment practices on the part of Cleveland city government.

The fact that 67 percent of affirmative action offices are associated with personnel/industrial relations offices indicates one reason why affirmative action programs have not been more successful in the past. This fact does not invalidate the objections raised in the report regarding such practices. There is a difference of professional opinion on this issue. Access to records certainly would present no problem in any organization where traditional personnel functions and affirmative action activities are properly conducted. Again, for the reasons cited in Chapter IV, the location of the Affirmative Action Officer within the Department of Personnel is one of the deficiencies in Cleveland's plan.

The Committee commends the city of Cleveland for the recent actions it has taken in disseminating information, both internally and externally, regarding equal employment opportunity activities. Undoubtedly, these actions will prove to have a beneficial impact.

As of September 30, 1977 the city has not been notified as to whether or not it will receive funds from the U.S. Civil Service Commission under the Intergovernmental Personnel Act to conduct training programs for 200 supervisory personnel. While it has been over one year since the city applied for these funds, it is gratifying to learn that approval should be forthcoming within 30 days. If not, however, the city should be prepared to make alternative arrangements for delivering these services.

In Chapter IV, the Committee stated, "It is to the city's credit that it formally recognizes problems faced by handicapped workers." Interestingly, what is referred to as wasted rhetoric on the historical development of problems on page 5 of the response, is virtually what the Affirmative Action Officer says is required on page 6 in reference to actions to be taken in the area of accessibility for the handicapped. It is true that problems must be identified before action can be taken in a city's affirmative action plan, but more than reports and recommendations are called for. Obviously the Affirmative Action Officer cannot act without the support of the Mayor and the city council. One of the problems cited in the report is the apparent lack of agreement on the part of the Mayor and the city council on the issue of affirmative action in general and on this plan in particular.

The Rehabilitation Act of 1973 was passed long before Cleveland began work on its affirmative action plan. Unbeknownst to the Committee, the recent HEW regulations were released after the plan was sent to the

printer. However, these regulations were widely debated for several months prior to their adoption. As stated in Chapter IV, Federal requirements in this area should be taken into consideration in an affirmative action plan.

If work assignments are as rigidly set by union agreements as the Affirmative Action Officer suggests, then there is little reason to evaluate job titles, descriptions, and work assignments as is proposed in Volume I of the Affirmative Action Plan. Apparently, the city believes, and the Committee concurs, that productive changes in this area are feasible. To argue that jobs themselves cannot be redesigned to expand the responsibilities of those currently employed due to collective bargaining agreements is to forego one opportunity for genuine creativity in the pursuit of equal employment opportunity.

The description of the grievance procedure includes many specific details, but fails to address key aspects of an adequate procedure. As stated in Chapter IV, it "does not indicate what kind of action may be taken against a supervisor found guilty of discrimination, what kind of relief could be granted a complainant, or what the timetable is for processing a complaint." In addition, "the procedure fails to make clear exactly who has final decisionmaking authority."

Volume II of the plan contains a vast amount of data on employees by race, sex, income, and occupation. But the number of pages of data, or the amount of time it takes to prepare and report data, are not appropriate criteria for determining clarity or accuracy. Again for

the reasons cited in Chapter IV, the data as presented in the plan do not reveal, for example, the concentration of blacks in the lower paid positions within occupational categories for the city in general.

The Committee did not argue for goals to be established on a city-wide basis rather than on a dvision-by-division basis. Rather, the Committee argued that both perspectives must be taken into consideration in developing goals. As stated in Chapter IV, "it is important to evaluate the employment practices and to establish goals within specific units. But it is equally imperative to examine the total work force and, within that structure, to identify problem areas and take the necessary corrective action." If goals were projected for the city as a whole, and one goal was, for example, to reduce the underutilization of blacks in higher paid positions within occupational groups, then the need for more employment opportunities would not be distorted, in fact, it would become clearer. As described in Chapter IV, it is the goals themselves and the way they were developed, not simplification of any kind on the part of the Committee, which will serve to exacerbate rather than ameliorate existing underutilization. The Committee, of course, never suggested that all problems of underutilization could be resolved in one year. But it does not take any experience with implementation of numerical goals to set, as a long term goal, the employment of minorities and women roughly in proportion to their representation in the relevant labor market. Precisely

because these problems cannot be eliminated in one or even a few years, it is necessary to establish long term goals.

The Committee assumes that the city intends to fully comply with all legal requirements. The Committee also notes that one of the deficiencies in the city's plan is its failure to specify numerical goals and timetables for the police and fire departments. In light of the fact that the city has been ordered by the courts to implement such plans in these two departments, this deficiency is particularly disturbing. Pending court orders or test results do not justify the failure to set such goals. All aspects of affirmative action plans are subject to change as future developments arise. If necessary, police and fire department goals can be revised.

The administrative complaint regarding use of CETA funds remains far from settled, despite the opinion of the arbitrator. Edward R. Stege and Charles Delbaum, attorneys for the Legal Aid Society, informed Commission staff on September 30, 1977 that the arbitration procedure was basically a technicality that had to be completed so that, in the event the complaint should go to the courts, all administrative remedies would have been exhausted. The complaint was filed with the Secretary of Labor and no final ruling has yet been handed down.

The Federal Aviation Administration (FAA) has found the city in compliance with Title VI. As indicated in Chapter IV, "the violations of Executive Order 11246, however, have not yet been resolved."

In Affirmative Action or Inaction? The Pursuit of Equal Employment Opportunity in Cleveland, the Ohio Advisory Committee to the U.S. Commission on Civil Rights has attempted to point out problems in Cleveland's affirmative action plan and in equal employment opportunity activities in general in the Cleveland area. The Committee has offered concrete receommendations it believes can contribute substantially towards the goal of equal employment opportunity. While critical of some current practices, the Committee views itself as a "friendly critic" of others who are working to achieve similar goals. The Committee welcomes the opportunity to work with local, state, and Federal officials in pursuing equal opportunity. It does not seek adversary relationships, particularly with others in the civil rights field.

The Committee appreciates the response from the city, and has altered this final report, where appropriate, in accordance with the city's response and responses from others. However, it finds no factual evidence to support the charges of bias and distortion made by the Affirmative Action Officer. Hopefully, officials and citizens of the Cleveland area will be better informed as a result of the Committee's efforts, and will work together to make the goal of equal opportunity a reality in the near future.

APPENDIX C

Response of the Contract Compliance Officer to *Affirmative Action or Inaction? The Pursuit of Equal Employment Opportunity in Cleveland*

COMMUNITY RELATIONS BOARD
EARL W. WILLIAMS
EXECUTIVE DIRECTOR

City of Cleveland

RALPH J. PERK, MAYOR

OFFICE OF CONTRACT COMPLIAN
ELIJAH A. WHEELER
CONTRACT COMPLIANCE OFFICE
ROOM 11 CITY HALL
PHONE: 216/694-3290

September 26, 1977

Ms. Henriette Looman, Chairperson
Ohio Advisory Committee
United Commission on Civil Rights
230 South Dearborn Street
Chicago, Illinois 60604

Dear Ms. Looman:

We have studied your draft report of the Ohio Advisory Committee to the U.S. Commission of Civil Rights.

Briefly we would like to comment and disagree on certain statements:

I. ESTABLISHMENT OF CONTRACT COMPLIANCE PROGRAM - Chapter V of the Cleveland's Contract Compliance Program.

The Contract Compliance program was established on December 15, 1969, not in 1974, as stated in the report.

II. ESTABLISHMENT OF GOALS OR TIMETABLE:

Since the beginning of the Contract Compliance Program, we have used the Manning Table Method, in addition to the Bidders Employment Practice Report. For all construction contracts, before the contract is awarded, we hold a pre award conference with the general and sub-contractors, each one is required to prepare a Manning Table stating the location of the project and estimated starting and completions dates of all trades to be performed on the job. The contractor must supply us with the minimum number of employees who will be working on the project until its completion. They must also state the minimum number of minorities and the various trades they will be performing during the project at that time, we insisted upon 1/3 minority participation.

II. ESTABLISHMENT OF GOALS OR TIMETABLE: (continued)

The Goals and Timetables are agreed upon at the pre award meeting. After the contract is "let", our assistant contract compliance officers monitors the job unannounced to see if the agreement is being upheld.

It is also stated on the Manning Table that any increase in the work force on the project will be accompanied by a one for one increase in minority group employees.
(Minority constitute Negroes, Orientals, Spanish Speaking, American Indians, and Women).

III. BIDDER EMPLOYMENT REPORTS:

In all Bidder Employment Practice Report Forms, we request vendors and contractors to report their breakdown of their current and previous work force. We suggest that this is an area that will be given more direct attention, and we certainly will improve our efforts.

IV. Under the section Promise and Performance in your report, you stated that there are a number of factors which limit the impact of our existing program.

First, firms located outside of the City of Cleveland and have contracts with the city received their contracts through the bidding process, which is a procedure every vendor must follow. This part of the operation, due to a requirement of the city law is beyond our control. Contract Compliance requirements are the same too every company doing business with the City of Cleveland regardless of the location.

The City's Contract Compliance program is good and sour and it is constantly improving, we are very influencial ir assisting minorities and women in receiving hundreds of jc opportunities in the City of Cleveland and throughout the country.

We are proud that this office is being increasingly recognized by the businesses, professionals, and lay citizens of this community and throughout the country, as one of the dedicated agencies for Equal Employment Opportunity.

IV. Promise and Performance: (continued)

1. Our goals are to insist that every company doing business with the City of Cleveland have meaningful minority and women participation in its employment in all job classifications.

2. Create avenues through which minority and women citizens of this city and elsewhere can secure employment and become a part of the mainstream of the economic life.

3. To provide opportunities for minority businessmen and women to have an equal and fair chance to bid on all City funded projects.

Thank you for your patience, if there is anything that we can do for you in the future, please don't hesitate to call.

Sincerely,

Elijah A. Wheeler,
Contract Compliance Officer
for
Equal Employment Opportunity

EAW/cat

APPENDIX D

Response of the Ohio Advisory Committee to the Comments of the Contract Compliance Officer

MIDWESTERN REGIONAL OFFICE
230 South Dearborn Street, 32nd Floor
Chicago, Illinois 60604
Telephone (312) 353-7371

Response of the Ohio Advisory Committee to the
Comments of the Contract Compliance Officer

The Manning Tables indicate the total number of employees and the percentage of minority employees in trade occupations who will be working on projects involving city contracts. These tables are completed by construction contractors only. Minority groups, according to the Mnning Tables used in 1976, include Negroes, Orientals, American Indians, and Spanish Speaking. Women are not listed and there is no space in the table where female employment is indicated. These tables are not submitted by non-construction contractors, they do not cover professional, technical, administrative, or any other workers except those in the trades, and they only apply to that portion of an employer's workforce who will be working on the projects involving city contracts.

Assuming that all city contractors meet the one-third minority requirement in the Manning Reports filed with the Office of Contract Compliance, then it is clear that most contractors are simply concentrating their minority employees on jobs involving city contracts. As indicated in Chapter V, 65 percent of city contractors employ a minority work force of less than one-third their total work force. The Office of Contract Compliance does not condone such "checkerboarding" and attempts to monitor contractors' employment practices to prevent this

from happening. But apparently this is precisely what is taking place in many instances. The Manning Tables, therefore, reflect how construction contractors assign their trade employees, they do not indicate what, if anything, contractors are doing to open up job opportunities for minorities.

There can be no doubt that some city contractors have increased their utilization of minorities and women, but according to the data provided in the 1976 Bidder Employment Practices Reports for Cleveland area contractors receiving contracts worth $50,000 or more and employing 25 people or more, that is not the general trend. As indicated in Chapter V, more contractors report a decline in the utilization of minorities and women than report an increase, in recent years.

In the draft report submitted for review, it was reported that the Office of Contract Compliance was established in 1974. This error was pointed out by the Contract Compliance Officer, and the correction was made in this report.

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